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DOCUMENTS
OF THE
SENATE

OF THE
STATE OF NEW YORK.

ONE HUNDRED AND THIRTY-THIRD SESSION.

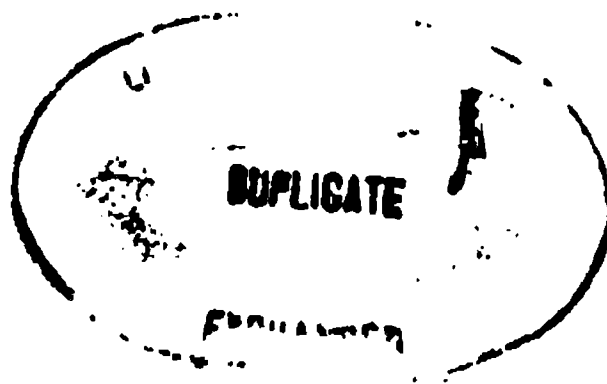
1910.

VOL. X.—No. 19.—PART 2.

ALBANY
J. B. LYON COMPANY, PRINTERS
1910

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REPORT

OF THE

PUBLIC SERVICE COMMISSION

FOR THE FIRST DISTRICT

OF THE

STATE OF NEW YORK

For the Year Ended December 31, 1909

Vol. II.

Orders, Opinions and Reports

ALBANY
J. B. LYON COMPANY, STATE PRINTER
1910

11-12-13-14-15-16-17-18-19-20-21-22-23-24-25-26-27-28-29-30-31-32-33-34-35-36-37-38-39-40-41-42-43-44-45-46-47-48-49-50-51-52-53-54-55-56-57-58-59-60-61-62-63-64-65-66-67-68-69-70-71-72-73-74-75-76-77-78-79-80-81-82-83-84-85-86-87-88-89-90-91-92-93-94-95-96-97-98-99-100

STATE OF NEW YORK

No. 19.

IN SENATE,

JANUARY 12, 1910.

REPORT OF THE PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

NEW YORK, *January* 10, 1910.

*Honorable Horace White, Lieutenant-Governor of the State of
New York.*

SIR:—The Public Service Commission for the First District of the State of New York herewith transmits to the Legislature its annual report for the year ended December 31, 1909.

Respectfully,

WILLIAM R. WILLCOX.

Chairman.

WILLIAM McCARROLL,

EDWARD M. BASSETT,

MILO R. MALTBIE,

JOHN E. EUSTIS,

Commissioners.

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ORDERS OF THE COMMISSION ISSUED IN 1909.

Pursuant to the provisions of the Public Service Commissions Law, copies of each order issued during the year 1909 are here published, except that, as blank forms were issued in issuing certain complaint, extension and hearing orders, it has been deemed unnecessary to repeat in publishing such orders that part which is uniformly the same in each respectively.

NOTE 1. COMPLAINT ORDERS.—Such orders were issued in substantially the following form:

TRIBUNE BUILDING, 154 NASSAU STREET,
BOROUGH OF MANHATTAN, CITY OF NEW YORK.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

.....	} Case No. ____.
Complainant,	
.....	
against	} Complaint order.
.....	
Defendant.	

This matter coming on upon the complaint of, by which it appears that said complainant is aggrieved by acts done or omitted to be done by, said defendant, and set forth in said complaint, which are claimed to be in violation of some provision of law, or of the terms and conditions of defendant's franchise, or of an order of this Commission,

Now, upon the said complaint, it is

Ordered: That a copy of the said complaint be forwarded to the said defendant and that the matters therein complained of be satisfied or the charges in said complaint set forth be answered by the said defendant within ten days after service of this order upon it, exclusive of the day of service.

NOTE 2. EXTENSION ORDERS.—Orders extending the time within which to answer complaints, or within which to comply with the provisions of final orders previously issued, were issued in substantially the following form:

8 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

TRIBUNE BUILDING, 154 NASSAU STREET,
BOROUGH OF MANHATTAN, CITY OF NEW YORK.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

.....	}	Case No. ____.	
Complainant,			Extension order.
against			
.....			
Defendant.			

An order, No. having been made herein on or about the.....day of....., 19.., ordering and directing the.....Company to within a time therein specified and the said..... Company having on, 19.., applied in writing for an extension of such time,

Now, on motion, it is

Ordered: That the time of the Company within which to be and the same hereby is extended to and including theday of....., 19...

NOTE 3. HEARING ORDERS.—Such orders upon complaints and answers were issued in substantially the following form:

TRIBUNE BUILDING, 154 NASSAU STREET,
BOROUGH OF MANHATTAN, CITY OF NEW YORK.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

.....	}	Case No. ____.	
Complainant,			Hearing order.
against			
.....			
Defendant.			

Upon the complaint herein, dated upon which a complaint order was issued on, and upon the answer ofthereto, verified

Ordered: That upon the matters therein a hearing be had on the..... day of, 19.., ato'clock in the noon, or at any time or times to which the same may be adjourned, at the rooms of the Commission, No. 154 Nassau Street, Borough of Manhattan, City and State of New York, to the end that the Commission may make such order or orders in the premises as shall be just and reasonable.

It is Further Ordered: That the said complainant and the said..... be given at least days' notice of such hearing by service upon the said complainant and upon the saidCompany, either personally or by mail, of a certified copy of this order, and that at such hearing said complainant and said Company be afforded all reasonable opportunity for presenting evidence and examining and cross-examining witnesses, as to the matters aforesaid.

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

It is Hereby Ordered: That a hearing be had on theday of , 19.., at o'clock in thenoon, or any time or times to which the same may be adjourned at the rooms of the Commission, No. 154 Nassau Street, Borough of Manhattan, City and State of New York, to inquire whether the of the Company in respect to are unreasonable, improper or inadequate and whether said company and if such be

found to be the fact then to determine whether it is reasonably necessary toand will be just, reasonable and proper to direct that and to fix and prescribe the same.

All to the end that the Commission may make such order or orders in the premises as shall be just and reasonable.

Further Ordered: That the said Company be given at least days' notice of such hearing by service upon it, either personally or by mail, of a certified copy of this order, and that at such hearing said company be afforded all reasonable opportunity for presenting evidence and examining and cross-examining witnesses as to the matters aforesaid.

Application for Authority to Issue Stocks, Bonds and Securities.

Bronx Gas and Electric Company.— Application for authority to issue \$1,500,000 of bonds.

Case No. 1160

Hearing Order

Opinion of the Commission

Final Order

Rehearing Order

The company, on September 10, 1909, petitioned the Commission, praying its consent and approval of an issue of \$1,500,000 of bonds, \$740,000 of which should be issued at once and the remainder to be issued from time to time with the approval of the Commission. The Commission, on September 14th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on September 22d, and that the company publish due notice thereof. Hearings were held September 22d, and subsequently until October 15, 1909.

OPINION OF THE COMMISSION.

(Adopted November 12, 1909.)

COMMISSIONER MALTBY:—

The Bronx Gas and Electric Company, the applicant in this case, is a corporation supplying gas and electricity in the territory east of the Bronx River, Borough of The Bronx. It was organized in 1893 and began to operate in 1895. There are outstanding at present First Mortgage, five per cent, gold bonds of a par value of \$500,000, maturing January 2, 1951. No other bonds may be issued under the mortgage, and there is no provision for the redemption of the bonds outstanding. The amount of capital stock authorized is \$500,000, of which \$486,500 have been issued and are now outstanding. The total liabilities of the company upon June 30, 1909, were:

Old Bond	\$500 00
First Mortgage Bonds.....	500,000 00
Real Estate Mortgages.....	30,100 00
Taxes	24,895 19
Interest on Funded and Unfunded Debt.....	14,085 00
Dividends Unpaid	300 00
Bills Payable	76,000 00
Consumers' Deposits	24,100 13
Accounts Payable	35,945 30
Other Unfunded Debt.....	7,460 96
Reserve (Accrued Amortization Fund).....	28,546 38
Capital Stock	486,500 00
Surplus	59,097 07
Total	<u>\$1,287,510 03</u>

PETITION OF APPLICANT.

The Bronx Gas and Electric Company asks that the Commission approve a mortgage providing for a total issue of \$1,500,000 of First Mortgage, five per cent bonds, payable fifty years from date, with the privilege reserved to the company to pay off the bonds outstanding at any time after ten years at a premium of five per cent. The entire amount is not to be issued at this time, approval having been requested for the issuance of \$740,000 only.

The application states that it is proposed to use these 740 bonds in the following manner:

500 bonds to be issued to the holders of the outstanding bonds, face value.....	\$500,000 00
80 bonds to be issued to the banking house of Charles D. Barney and Company, it being estimated that 50 bonds (par value \$50,000) will be needed to induce the present bondholders to surrender the bonds outstanding and to accept the new bonds, and that 30 bonds (par value \$30,000) will be retained by Barney and Company as commission for securing the exchange, face value.....	80,000 00
160 bonds to be sold for cash, face value.....	160,000 00
Total	<u>\$740,000 00</u>

In other words, 580 bonds will be issued through Charles D. Barney and Company with the understanding that they will secure the surrender of the present outstanding bonds and that whatever profit can be secured will be retained by Barney and Company. The remaining 160 bonds (par value \$160,000) will be sold by Charles D. Barney and Company. The proceeds will be turned over to the Bronx Gas and Electric Company and used to pay certain obligations. The Bronx Company expects that Barney and Company will pay 90 for the bonds, netting \$144,000. The original application stated that this amount of money would be used for the following purposes:

To pay off three real estate mortgages amounting to..	\$30,100 00
To return to the treasury of the Company a sum equivalent to the total amount appropriated since January 1, 1907, from the Company's earnings, and obtained by borrowing money on short credit, thus depleting the reserve and surplus funds, all said moneys having been actually expended in the purchase of new plant and equipment and for construction purposes	115,250 47
Total	<u>\$145,350 47</u>

The application also stated:

"That it is necessary in the operation of your Petitioner's business to keep and maintain a proper surplus fund and a proper reserve fund to meet various contingencies, including the repayment of deposits made by customers, and it is the purpose of your Petitioner to apply an appropriate portion of said loan to the re-establishment of said funds."

STATUTORY REQUIREMENTS.

While the hearings upon this application were in progress, the attention of the petitioner was called to the fact that the Public Service Commissions Law does not authorize the issuance of bonds for all of the purposes just named. Section 69 says:

"A gas corporation or electrical corporation * * * may issue stocks, bonds * * * when necessary for the acquisition of property, the construction, completion, extension or improvement of its plant or distributing system, or for the improvement or maintenance of its service, or for the discharge or lawful refunding of its obligations, provided * * *."

In our opinion, this Commission has no authority to approve an issue of bonds to be used to create surplus or reserve funds.

The applicant asks that the issue be approved upon the ground that all of the proceeds will be used to discharge and refund its obligations, and sets forth the following as the debts to be paid:

Three real estate mortgages.....	\$30,100 00
Various accounts payable.....	18,511 60
Assessments	1,025 83
Bills payable	76,000 00
Taxes	23,869 36
Total	<u>\$149,506 79</u>

The evidence presented at the hearings indicated that these figures were for June 30, 1909, and that these obligations still exist, except that two notes have been paid off, reducing bills payable to \$45,000 and the total to \$118,506.79. The company has brought its application within the statute to this extent, therefore, and the question now arises whether the proposed increase of capital is reasonably required and should be approved.

AMOUNTS ALLOWED.

A thorough examination has been made of each item, of the property it represents and of the need therefor. The mortgages represent real estate now in actual use. The accounts payable represent physical property in the nature of additions, improvements and extensions, including in no case any items properly chargeable to maintenance, repairs or operation. The special assessments were levied by the City of New York for street improvements which have increased the value of the land owned. All of these items, totaling \$49,630.43, are proper capital charges.

During the examination into the use which had been made of the money raised by the issue of notes, considerable uncertainty was found. The present notes (one for \$10,000 and one for \$35,000) are renewal notes, representing obligations incurred in 1905 or prior thereto. It is impossible to state with

absolute certainty that the funds derived from these notes originally were spent for capital purposes. The accounting methods were such that construction funds were not separated from operating expenses. It seems reasonably sure, however, that the original loan of \$10,000 made in December, 1905, and periodically renewed, was used to pay for plant and apparatus in January, 1906. The funding of this amount is also approved, therefore. But there is so much doubt regarding the other note of \$35,000 that the Commission does not approve the issuance of bonds to retire it.

CAPITALIZATION OF PAST EXPENDITURES.

The objections to the capitalization of taxes are obvious. Special considerations have been urged to justify it in this case which require some discussion. Considerable evidence was presented to show that the company has added to and extended its plant, mains and lines out of earnings. It was stated that the amount from the incorporation of the company down to June 30, 1909, was \$276,534.01. A detailed list of such expenditures was produced totaling \$126,595.36 for the period from January 1, 1906, to January 1, 1909—three years. Another statement gave the amount for the period from January 1, 1907, to June 30, 1909, as \$145,350.47, including real estate costing nearly \$31,000.

An examination of the company's books by the accountants of the Commission shows that Fixed Capital (plant, etc.) was debited upon December 31, 1905, to the extent of \$411,230.83, and that charges have since been made up to June 30, 1909, of \$739,061.56,* excluding \$216,000 arbitrarily added in 1905, and that \$254,170.24* have been deducted, representing depreciation, apparatus thrown aside, and a few other minor items erroneously charged to plant account, afterwards charged to operation, leaving a balance upon June 30, 1909, of \$1,112,122.15.

Of course not all of the money spent on the plant came from earnings. During the thirteen and one-half years covered, the funded debt and capital stock increased approximately \$604,000.

If the stock dividend of \$216,000 be omitted, the increase was....	\$388, 000
Miscellaneous liabilities, omitting funds representing book entries, increased about	151, 000

The total increase was.....	\$539, 000
During the same period, miscellaneous assets increased nearly...	128, 000

Leaving a net increase in liabilities, which must have gone into plant or have been charged thereto, of.....	\$411, 000
---	------------

If there was an actual expenditure upon plant during this period of	739, 000
--	----------

it must follow that.....	\$328, 000
came from earnings.	

This brings us to the questions whether the amount charged to construction actually represents additions and extensions, and whether all of it should

* Duplicate debits and credits amounting to \$17,773.35 are included.

be charged to capital. It is impossible to answer the first question affirmatively with certainty. A portion may have been properly chargeable to operating expenses for repairs or replacements, but one cannot be positive. It seems likely, however, that a large proportion actually represented additions to plant. But it does not follow that such expenditures should have been charged to capital or that they should be allowed now. Depreciation must be provided for, and if a company is over-capitalized at the start, such over-capitalization should be eliminated as rapidly as possible so that a healthful, normal condition may be attained. It is impossible to assert unqualifiedly that the company was or was not overcapitalized at the beginning. Subsequent operations seem to indicate that it was and that the securities given for the original undertaking exceeded the actual value of the property acquired. This could have been easily accomplished, for the same persons were influential in the Bronx Gas and Electric Company and in the construction company.

STOCK DIVIDEND.

The Commission is also unable to conclude from the evidence before it that the amount set aside for depreciation was too large or that this amount plus expenditures for additions was larger than it should have been or so large that it would justify at this time a capitalization of any expenditures made out of earnings in past years. The circumstances surrounding the stock issue in 1905 confirm this conclusion. Up to May, 1905, 2,705 shares of \$100 each had been issued, ten for cash and 2,695 for "property and services" under the construction agreement relating to the original plant. In May, 1905, 2,160 shares were issued (par value \$216,000) for "property and services," according to the entries in the stock certificate book. At the same time the debit balance in plant account was increased by \$216,000 without a single entry to show what that sum represented. These facts caused a thorough examination to be made of the books and records of the company which show that the issue was practically a stock dividend, each stockholder receiving eighty per cent of his holdings in new stock. The equality of distribution was carried to such an extent that certain stockholders were given eight-tenths of a share and certain others two-tenths of a share.

The explanation offered at the hearings was that the stock "was issued to James Hennesey and Company [the original construction company], his assignees and transferees," that it was issued for "property and services," that it was part payment for the plant provided by the construction company at the very beginning, and that the holders of stock in 1905 had a claim through Hennesey and Company as a part of the stock they acquired to further stock from the Bronx Gas and Electric Company.

As a matter of fact not a single share of the 2,160 was delivered to Hennesey and Company. The company was not then in existence and had not been for some time. The Bronx Gas and Electric Company is unable to produce any document showing an order or assignment from Hennesey and Company directing that stock due it be distributed *pro rata* to the then stockholders. The president of the company testified that he had purchased part of the original issue to Hennesey and Company, that no assignment or transfer was made to him except of the stock itself, that the 1905 issue was

made without any statement from Hennesey and Company and that so far as that company was concerned the Bronx Company could have issued the stock differently. Indeed, the strict mathematical apportionment was departed from in five cases. Two stockholders were each given eight-tenths of a share belonging to two other shareholders; and one was given no new stock whatever. This did not disturb the *pro rata* distribution, because eighty per cent of 2,705 is 2,164 and only 2,160 shares were actually issued.

These facts seem to dispose of the contention that there was attached to the stock originally issued any right to a *pro rata* participation in a stock issue of a later date, and that the stock was issued to transferees of Hennesey and Company. There is no evidence whatever to show that the stockholders of 1905 possessed such rights. The fact that those who purchased their stock for cash at par directly from the Bronx Company and that those who happened to hold such shares in 1905 were given eighty per cent of their holdings in new stock proves that no such rights originated in the construction contract, as such stock had no connection with the contract.

The applicant was asked to produce correspondence with Hennesey and Company and other papers relating to the issue of 1905, but could find nothing. The president of the company, who has been connected with the undertaking in some position since 1896, testified that he did not know of any unpaid obligation due Hennesey and Company in 1905, that he voted for the issue without knowing of any, and that he did not think the company's books would show the existence of such an obligation. The books and records have been carefully examined by the accountants of the Commission, and no record or reference to any such obligation has been found. Probably none existed. It is very unlikely that one involving a sum of \$216,000 would be allowed to run for ten years without payment of any sort or without any record being made of it.

The records also show that not one dollar was paid to the Bronx Company for the stock, that no voucher was rendered for any expenditure, that no acknowledgment of the payment of any obligation was given to the company and that nothing went into the property from the issue of the stock. Further, there is nothing to show that the stockholders rendered any services or transferred any property to the Bronx Company or to Hennesey and Company which would legally entitle them to the stock they received. The whole procedure has all the earmarks of a stock dividend, issued because earnings were becoming too large and because there was a balance in the depreciation fund of \$186,000 and a surplus of \$30,000. The minutes of the board of directors merely recited:

"The General Manager and Treasurer submitted a report to the Board relative to a further issue of the capital stock of this company, amounting in all to twenty-one hundred and sixty shares, the same to be issued for properties and services set forth in such report, of the full and fair value of the par value of the said shares, and the President and Secretary on motion, unanimously carried, were ordered and directed to issue the said shares of stock, being full paid stock, according to the said report, and thereupon in the presence of the Board the said stock was so issued and such issue approved."

The Commission has been unable to secure a copy of this report and the president states the company does not have one.

GENERAL FINANCIAL CONDITION.

If the issue of 1905 had been sold for cash, the company would probably not now need to apply for a bond issue, and it is a grave question whether the stock is not illegally issued. It is certain that if the company had not added to its physical property out of earnings, it would to-day be in a very unfortunate position. As it is, a cursory inventory and appraisal of the property of the company by the engineers of the Commission shows beyond question that the present value of the physical assets, less depreciation, considerably exceeds the proposed issue of \$740,000. It can be stated without hesitation, therefore, that when all of the bonds have been issued as provided for in this opinion (\$625,000) *there will be physical property considerably in excess of the funded debt.*

An analysis of the accounts of the company from 1895 to date and of the circumstances under which the company is operating also justifies the issuance of \$625,000 in bonds at this time. The company has always paid interest, and there has been a net profit in every year after paying operating expenses, taxes and fixed charges. Only one year — 1896 — has shown a deficit after deducting depreciation. Dividends have been paid since 1900, of fifteen per cent in 1901, sixteen per cent in 1902, five per cent in 1903, nine per cent, 1904, and five per cent in 1906, 1907 and 1908 each. If the stock had not been increased arbitrarily in 1905, the dividends in each of the last three years would have been nearly nine per cent. Further, the area of supply is steadily increasing in population, and the amount of electricity and gas supplied is growing. The proportion of current sold for street lighting as compared with private lighting is decreasing — a favorable sign. *These and other facts warrant the conclusion that, barring mismanagement or misjudgment upon the part of the company itself, there is no indication that the company will not be able to pay the interest upon the bonds authorized and the amortization charges called for in this opinion.*

In the general investigation into the affairs of the electric lighting companies, the franchise rights of the Bronx Gas and Electric Company were examined and appear to be valid. This subject was not touched upon at the hearings upon this application, therefore.

REFUNDING OF PRESENT ISSUE.

Much as the Commission dislikes to see the funded debt of the company increased by \$50,000 representing no addition to the property of the company but only premiums to retire the present bond issue, it does not believe it would be justified in refusing the application *in toto* for this reason. The Bronx Gas and Electric Company must have additional capital from time to time with which to extend its plant, mains and wires. Otherwise the development of the area as well as the growth of the company will be retarded. A first mortgage is outstanding, but no more bonds may be issued under it. Any other bonds that are issued must rank after this first issue unless it is retired. The representatives of the company insist that a second mortgage or a consolidated mortgage is impracticable, asserting that the bonds could be marketed only at a heavy discount if at all. The same statement is made relative to an increase in common stock or the issuance of preferred stock. Possibly the present needs of the company would be

provided for more easily and cheaply in one of these ways; but, in view of the great future needs, and of the fact that a sufficient premium must be offered to induce the present holders to voluntarily surrender their bonds (there is no redemption clause in the mortgage), the Commission has decided to allow the issuance of bonds to the extent of \$50,000 as premiums, provided the whole issue is retired. As the proposed issue may be paid off after ten years, the certificate of approval will require that a fund be accumulated out of annual payments from earnings which shall amount to \$50,000 in ten years.

The payment of such a large amount as \$30,000 in fifty-year bonds for facilitating the exchange of new bonds for old, when nearly every bondholder has expressed his willingness to make the exchange provided he is paid a ten per cent bonus, is not approved by the Commission. The Commission will allow the issuance of bonds to the extent of \$15,000, provided this amount also is amortized in ten years.

The issuance of the total amount — \$565,000 — for refunding bonds will be conditioned upon the retirement of the entire issue now outstanding.

The applicant proposes that it be allowed to sell the required number of bonds, outside of the refunding operation, to the banking house of Charles D. Barney and Company at 90. A representative of that company admitted that they expected to resell them for 95 or more. The Commission does not believe that the issuance of the bonds at such a figure should be approved unless a sale at public letting to which all may have access shall show that 90 is the full market value of the bonds. Consequently the order will require that the bonds be sold by public letting similarly to municipal bond sales unless a private sale will net the company at least par. The order will also contain the usual clause as to audit by accountants appointed by the Commission. The company will be required to change its methods of keeping books. The accounts should be kept in a more lucid manner.

To summarize, the Commission approves the issuance of bonds for the following purposes:

To refund the outstanding bonds — par value \$500,000	
— to pay premiums thereon and to defray the proper expenses of such operation.....	\$565,000 00
To pay legal obligations stated to be:	
Three real estate mortgages.....	\$30,100 00
Various accounts payable.....	18,511 60
Assessments	1,025 83
Bills payable	10,000 00
	<hr/>
	59,636 43
A total of.....	<hr/> <hr/> \$624,636 43

It may be pointed out, although not incumbent upon the Commission to do so, that the obligations not allowed to be turned into bonds (a note of \$35,000 and taxes amounting to \$23,869.36) can be handled by the company in other ways. The note has already been renewed several times; possibly it can be again. Taxes can be and should be paid out of earnings. The income has always been adequate, and no circumstances have been shown to exist that required a different practice at this time.

Thereupon the Commission issued the following order:

In the Matter
of the
Application of THE BRONX GAS AND ELEC-
TRIC COMPANY for the approval of issue of
bonds of par value of \$1,500,000, secured by
first mortgage, whereof \$740,000 to be issued
forthwith to retire \$500,000 outstanding bonds
and for other purposes.

Case No. 1160
Order Authorizing Issue
of Bonds
November 12, 1909.

SECTION 1. The Bronx Gas and Electric Company having by its petition, verified September 10, 1909, made application to the Public Service Commission for the First District under section 69 of the Public Service Commissions Law for an order authorizing said company to issue fifteen hundred first mortgage coupon bonds of one thousand dollars par value each, to bear interest at the rate of five per cent per annum, payable in fifty years from their date with privilege to pay off the same at any time after ten years, at a premium of five per cent, the bonds to be secured by a first mortgage upon all the real estate, chattels and franchises of the company; and the Commission having made an order on September 14, 1909, directing that said petition and application be heard by the Commission on September 22, 1909, and that the petitioner publish a notice of the time and place of such hearing in the manner and as provided in said order and file proof of such publication with the Secretary of the Commission on or before the opening of said hearing, and said application having been heard on September 22, September 27, October 7 and October 15, 1909, before Honorable Milo R. Maltbie, Commissioner, Alfred B. Cruikshank appearing for the petitioner in support of the application, and no one appearing in opposition thereto, and the Commission having made due investigation and having examined witnesses, books, papers, documents and contracts to enable it to reach a determination;

It being now the opinion of the Commission that the use of the capital to be secured by the issue of five per cent bonds under said first mortgage to the amount of \$625,000 face value of principal of such bonds is reasonably required for the discharge or lawful refunding of its obligations, viz.:

To refund the outstanding bonds, par value \$500,000 maturing 1951; to pay necessary premiums thereon to obtain their surrender by present holders and to defray the proper expenses of such operation.	\$565,000 00
To pay legal obligations stated to be three real estate mortgages	30,100 00
Various accounts payable to the extent of.....	18,511 60
Assessments	1,025 83
Note of Bronx Borough Bank.....	10,000 00
A total of	\$624,637 43

Ordered, That the issue of \$625,000 face value of principal of five per cent bonds of The Bronx Gas and Electric Company payable in fifty years from their date with privilege to pay off the same at any time after ten years at a premium of five per cent, be and the same hereby is authorized. The said bonds shall be secured by a first mortgage in the form now before the Commission, covering all the real estate, chattels and franchises of the company.

§ 2. *It is further ordered*, That the said issue of bonds is authorized upon the conditions following and not otherwise, to wit:

First, No part of the \$565,000 par value of the bonds to be used for refunding the present outstanding issue of \$500,000 to be issued unless the entire outstanding issue is retired.

Second, Unless the remaining bonds, \$60,000 par value, shall be sold at private sale at not less than par and accrued interest, after payment of all commissions and expenses, the Treasurer of the company shall invite proposals for the purchase of said bonds to be publicly advertised once a week for four successive weeks in four daily newspapers published in the City of New York, and said Treasurer shall award said bonds to the highest bidder or bidders therefor. Said proposals shall be opened publicly by said Treasurer in the presence of the Public Service Commissioners of the First District, or such of them as shall attend at the time and place specified in said public advertisement. It shall be a condition of said sale, and the advertisement calling for proposals therefor shall so declare, that any bidder may bid as to said bonds for all or none at one price, or for all or any part at one price, or for portions of said bonds at different prices, and any bidder who shall bid for a portion of said bonds may be required to accept a part to the amount bid for by him at the same rate or proportion as may be specified in his bid, and any bid which conflicts with this condition may be rejected; and if the Board of Directors deems it to be for the interest of the company so to do, it may award the bonds to the bidder offering the highest price for all or for a number of said bonds, provided, however, that if the Board of Directors deems it to be in the interest of said company it may reject all bids. Said Board of Directors may prescribe such other conditions incident to and providing for the proposal for the purchase of said bonds as to said Board may seem fit.

Third, In order to provide for the retirement of bonds amounting to Sixty-five Thousand Dollars (\$65,000) to be issued on account of the aforementioned premiums, commissions and expenses in connection with the refunding hereby authorized, the company shall establish a sinking fund into which it shall pay at least Five Thousand Two Hundred Dollars (\$5,200) annually for ten years, or until such payments, with accumulations, shall aggregate Sixty-five Thousand Dollars (\$65,000); the said payments to be made out of income and the said fund, with accumulations, to be invested, except as herein otherwise provided, exclusively in the company's bonds at par and accrued interest. In case it shall become possible for the company to invest any portion of its sinking fund in the purchase of bonds other than those sold directly to the sinking fund and at a price less than par and accrued interest, the company upon proper application to the Public Service Commission for the First District of the State of New York or to its successor or to any other commission, board or body having at the time

authority in the premises, may make such purchase or purchases if approved by the Public Service Commission, or such other authority, and according to such terms and conditions as may by such authority be prescribed.

Any cash balance remaining in the sinking fund after application as above provided, shall be deposited in bank and invested with the next sinking fund payment as hereinabove provided.

All bonds purchased by the sinking fund as in this section provided shall be stamped as irrevocably belonging to the sinking fund and shall not again be issued.

Fourth, All discounts, commissions and expenses, in excess of the aforementioned Sixty-five Thousand Dollars (\$65,000), in connection with the issuing of all the bonds hereby authorized, amounting to Six Hundred and Twenty-five Thousand Dollars (\$625,000), shall be amortized out of the income of the company within ten years from the date of issue.

Fifth, The company shall keep true and accurate accounts showing the receipt and application by it of the proceeds of the sale or disposition of all bonds authorized to be issued hereby, and report in writing monthly to the Commission on or before the tenth day of each month its receipts and disbursements during the previous month of the proceeds of the said bonds, and said accounts shall be open to audit, and may be audited from time to time by an accountant or accountants or examiner appointed for such purpose by the Commission.

Sixth, The permission and authority hereby granted shall apply only to those bonds issued on or before July 1, 1910.

§ 3. *Further ordered*: That this order take effect on November 12, 1909, and continue in force until otherwise ordered by the Commission.

The company, on December 4th, applied to the Commission for a rehearing as to the matters contained in the final order and sufficient reason appearing therefor, the Commission directed that said petition be heard on December 17, 1909. A hearing was held December 17, 1909.

City Island Railroad Company.—Application for authority to issue \$50,000 of bonds.

Case No. 1095

Hearing Order

Discontinuance Order

The company, on April 7, 1909, petitioned the Commission for its consent and approval of an issue of bonds of the par value of \$50,000, for the purpose of retiring a certain bond and mortgage dated January 2, 1888, and for the purpose of additional construction, improvement and betterment as set forth in the petition.

The Commission, on April 12th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on April 24th and that the company publish due notice thereof. Hearings were held on April 24 and 28, 1909. The company having withdrawn its application, the following order was issued:

<p style="text-align: center;">In the Matter of the Application of the CITY ISLAND RAILROAD COMPANY for authority to issue bonds, par value fifty thousand dollars (\$50,000).</p>	<p style="font-size: 3em; line-height: 1;">}</p>	<p>Case No. 1095 Discontinuance Order November 30, 1909</p>
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The City Island Railroad Company having, in writing, dated November 26, 1909, withdrawn its application, verified April 7, 1909, in the above entitled proceeding, it is

Ordered: That the above entitled proceeding be and the same hereby is discontinued, without prejudice to a renewal of said application.

Coney Island and Brooklyn Railroad Company.—Application for authority to issue \$462,000 of additional bonds.

Case No. 420

The company, on April 6, 1908, petitioned the Commission praying its consent and approval of an additional issue of bonds in the sum of \$462,000. Hearings were held in 1908 and in 1909 until December 23d, when the matter was adjourned until January 3, 1910.

Coney Island and Brooklyn Railroad Company.—Application for authority to issue bonds of the par value of \$372,000.00.

Case No. 1109

Hearing Order
Opinion of the Commission
Final Order
Extension Orders
Rehearing Order

The company, on May 6, 1909, petitioned the Commission praying its consent and approval of an additional issue of bonds of the

par value of \$372,000, to be secured by its consolidated mortgage, dated December 15, 1904. The Commission, on May 18th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition June 1st, and that the company publish due notice thereof. Hearings were held on June 1st and subsequently until June 25, 1909.

OPINION OF THE COMMISSION.

(Adopted October 22, 1909.)

COMMISSIONER BASSETT:—

This is an application of the Coney Island and Brooklyn Railroad Company for an order under Section 55 of the Public Service Commissions Law authorizing the issuance by that company under its consolidated mortgage bearing date December 15, 1904, of \$372,000, face value of 4 per cent bonds of the company, the same to be sold at 80 cents in order to realize \$297,000 which the company submits is the estimated cost of reconstruction of its railroad in Franklin Avenue and De Kalb Avenue, Brooklyn, the relaying of its present rail in Smith Street and the paving of all three streets.

The mortgage to an authorized amount of \$10,000,000 was consented to by the former Board of Railroad Commissioners by an order entered December 14, 1904, and by that order the company was directed before issuing any bonds under such mortgage beyond \$5,500,000 to make application to the Board of Railroad Commissioners for its approval. Bonds to the amount of \$5,500,000 have been issued as follows:—

1. \$2,000,000 to be held by the Trustee to retire in 1948 a like amount of bonds of the Coney Island and Brooklyn Railroad Company.
2. \$2,000,000 to be held by the Trustee to retire in 1939 a like amount of bonds of the Brooklyn City and Newtown Railroad Company.
3. \$1,500,000 issued and sold.

It is provided in the mortgage as follows (pages 20 and 21):

“(d) The remaining bonds, aggregating \$4,500,000, may, from time to time hereafter, upon resolution of the directors of ‘The Railroad Company,’ be executed by its officers and delivered to The Trustee for certification, and said bonds shall be certified by ‘The Trustee’ and delivered to ‘The Railroad Company’ upon its demand or upon the order of its President for any of the following purposes:

“The extensions of the railroads of ‘The Railroad Company’ by construction or purchase, or the purchase of additional equipment over and above the amount of the equipment now in use by ‘The Railroad Company,’ whether owned by it or the Brooklyn City and Newtown Railroad Company (and this shall be construed not to include replacement of old equipment with new equipment), or the reconstruction of the railroad from Prospect Park to Coney Island, including the pavement of Coney Island Avenue, or the cost of one replacement of cobblestone pavement with improved pavement upon the street now paved with cobble stones, done upon the order of city officials or in anticipation thereof, or in placing cables and wires underground which are now overhead, or any other betterment which, in the judgment of the directors of ‘The Railroad Company,’ ought not to be charged as expense of operation.”

The company shows upon the application that the directors of the Coney Island and Brooklyn Railroad Company have by resolution declared that in their judgment the betterment proposed under this application ought not to be charged as expense of operation.

The stock of the company is \$2,983,900, of which nearly \$1,000,000 is new stock authorized March 11, 1907. Upon the \$2,000,000 of stock previously existing, dividends were paid in 1903 of 16 per cent, in 1904 of 16 per cent, in 1905 of 10 per cent, in 1906 of 8 per cent, and in 1907 of 2 per cent. It is testified on behalf of the company making the application that the work for which the issue of these bonds is desired will cost \$297,000. The figures and estimates submitted by the company as to the cost of this work have been carefully examined by the engineers of the Commission and a report made, and it is apparent that the company's estimate is probably not much, if any, in excess of the probable necessary cost. It is, however, shown that the larger portion of the work proposed to be done is replacement of structure and material, and that only a portion thereof, estimated to be about \$85,000 in cost, can be regarded as an improvement or betterment. If new track of the same weight as the old were laid, and in the same manner substantially as the old, then the whole would be a replacement, but to such extent as the present track is heavier and laid in a better and more expensive manner, such excess over mere replacement should be treated as a betterment. The Commission is of the opinion that replacements should not, except possibly in extraordinary cases, be made with the authority of the Commission from the proceeds of bond issues, but that depreciation in perishable structures and property should be provided for and made good out of the earnings of the venture. The result of providing for the replacement of worn out and perishable property by constant issues of new stock or new bonds of public service corporations has been shown to be a constantly increasing capitalization representing a constantly decreasing property and equipment, resulting in false statements by public service corporations as to their assets in public reports and in reports to stockholders, which have been misleading and damaging. This subject has been carefully considered in an opinion of the Public Service Commission of the Second District, entitled: "Matter of Application of Niagara Light, Heat and Power Company, Decided June 29, 1909;" and the practice of capitalizing replacements of property or equipment of public service corporations has been disapproved.

The Commission is therefore of the opinion that bonds should be authorized to be issued by the company upon this application only so far as may be necessary to pay for the \$85,000 of betterments and improvements which are included in this work proposed to be done. The 4 per cent bonds, however, proposed to be issued are not first mortgage bonds, but consolidated bonds, and testimony has been introduced which tends to show that at this time they cannot be sold at a price in excess of 80 cents.

It is accordingly recommended that an order be made authorizing the issue of not exceeding \$107,000 of such bonds which shall be sold at not less than 80 cents and net the company \$85,000, the proceeds to be applied only to pay for the said betterments and improvements in carrying out this work, and the discount and expenses in connection with the sale to be distributed over the term of the bonds and charged against the income of the company. The order should also contain a proper provision for audit by the Commission.

The Commission thereupon adopted the following order:

In the Matter
of the
Application of the CONEY ISLAND AND
BROOKLYN RAILROAD COMPANY for
authority to issue additional bonds of the par
value of \$372,000 secured by its consolidated
mortgage authorized by order of the State
Board of Railroad Commissioners, December
14, 1904.

Case No. 1109
Order Authorizing Issue
of Bonds
October 22, 1909.

Coney Island and Brooklyn Railroad Company having by its petition, verified May 6, 1909, made application to the Public Service Commission for the First District under section 55 of the Public Service Commissions Law for an order authorizing such company to issue 4 per cent bonds of the par value of \$372,000, secured by a certain mortgage of said company to the Mercantile Trust Company, Trustee, bearing date December 15, 1904, the same to be sold at 80 per cent of the par value thereof to pay \$297,000, the estimated cost of the reconstruction of the petitioner's railroad on Franklin Avenue and De Kalb Avenue and the relaying of the present rail on Smith Street and paving all three streets as in said petition set forth, and the Commission having made an order on May 18, 1909, directing that said petition and application be heard by the Commission on the 1st day of June, 1909, and that the petitioner publish a notice of the time and place of such hearing in the manner and as provided in said order, and file proof of such publication with the Secretary of the Commission on or before the opening of said hearing, and due proof having been filed of the publication of said notice accordingly and said application having been heard on the 1st, 15th, 18th, 24th and 25th days of June, 1909, before Honorable Edward M. Bassett, Commissioner, Messrs. Dykman, Oeland and Kuhn appearing for the said Coney Island and Brooklyn Railroad Company in support of said application, and no one appearing in opposition thereto, and the Commission having made due investigation and having examined witnesses, books, papers, documents and contracts to enable it to reach a determination;

It being now the opinion of the Commission that the use of the capital to be secured by the issue of 4 per cent bonds of said Coney Island and Brooklyn Railroad Company under said mortgage to the amount of \$107,000 face value of principal of such bonds is reasonably required for the extension and improvement of its facilities; it is hereby

Ordered: That the Public Service Commission for the First District does hereby authorize the issue by the said Coney Island and Brooklyn Railroad Company of \$107,000, face value of principal of 4 per cent bonds of said company under the mortgage and in pursuance of the terms thereof heretofore and on December 15, 1904, made and executed by the said Coney Island and Brooklyn Railroad Company to the Mercantile Trust Company, as Trustee; and it is further

Ordered: That said issue of said bonds is authorized upon the conditions following, and not otherwise, to wit:

1. That the Coney Island and Brooklyn Railroad Company shall sell the bonds hereby authorized at not less than 80 per cent of the par value of the principal thereof and interest accrued thereon, and that the proceeds shall be applied only to pay for betterments and improvements in and by the reconstruction of said company's railroad on Franklin Avenue and De Kalb Avenue and the relaying of the rail on Smith Street and paving all three streets.

2. That said company shall keep true and correct accounts showing the receipt and application by it of the proceeds of the sale of all bonds authorized to be issued hereby, and report in writing monthly to the Commission on or before the fifth day of each month its receipts and dispositions during the previous month of the proceeds of the said bonds, and that said accounts shall be open to audit and may be audited from time to time by an impartial accountant or accountants appointed for such purpose by the Commission.

3. That the discount and expenses in connection with the sale of any bonds authorized to be issued hereby shall be amortized out of the income of the company before January 1, 1955; and it is further

Ordered: That this order take effect on the 30th day of October, 1909, and continue in force until otherwise ordered by the Commission and that within ten days after service upon it of a copy of this order said Coney Island and Brooklyn Railroad Company notify the Commission whether the terms of this order are accepted and will be obeyed.

On November 18th, the company made application in writing for an extension of the time within which to notify the Commission whether the terms of the foregoing order would be accepted, whereupon the Commission on November 19th, extended said time to and including December 15, 1909, and on further application, the Commission, on December 17th, again extended the time of the company to and including December 20th. On December 20th, the company petitioned the Commission for a rehearing upon the matters set forth in the final order. The Commission, on December 21st, ordered that a rehearing be had on January 7, 1910.

Kings County Electric Light and Power Company.—Application for authority to issue \$5,000,000 of bonds.

Case No. 1174

Hearing Order

The company, on October 27, 1909, petitioned the Commission praying its consent and approval of an issue of \$5,000,000 of convertible debenture bonds. The Commission, on October 29th, directed (see blank form of hearing order, page 9) that a hear-

ing be had on said petition on November 10th, and that the company publish due notice of said hearing. Hearings were held on November 10th and subsequently until December 28th, when the matter was adjourned to January 6, 1910.

Kings County Lighting Company.— Application for authority to issue \$450,000 of bonds.

Case No. 1110

Hearing Order

Opinion of the Commission

Final Order

Amendatory Order

The company, on May 14, 1909, petitioned the Commission praying for its consent and approval of an issue of bonds of the par value of \$450,000, for the purpose of retiring \$250,000 of 5 per cent debenture bonds and for other purposes set forth in the petition. The Commission, on May 18th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on June 1st, and that the company publish due notice thereof. Hearings were held on June 1st and subsequently until June 28, 1909.

OPINION OF THE COMMISSION.

(Adopted July 2, 1909.)

COMMISSIONER MALTBY:—

The Kings County Lighting Company, the applicant in this case, was organized in 1904 apparently for the purpose of taking over the property and franchises of the Kings County Gas and Illuminating Company. The capitalization of the latter company just prior to the merger consisted of capital stock of \$1,000,000, par value, and a funded debt of \$1,000,000, which included debenture bonds of \$250,000 bearing five per cent interest, due January 1, 1910.

Under date of June 30, 1904, the Kings County Lighting Company became the owner of the entire stock of the old company, and the latter was merged in the former. The following day mortgage bonds for \$1,329,000 were issued. These bonds are 5 per cent, 50-year, gold bonds, and the total amount that may be issued under the mortgage is \$5,000,000, of which \$1,603,000 are now outstanding. Of this first issue of July 1, 1904, bonds for \$217,000 were sold for cash at par, and the remainder, \$1,112,000, were issued in part payment for the capital stock of the old company, the balance of the consideration being the stock of the new company, par value of \$2,000,000.

Besides the issue of bonds to the amount of \$217,000, sold for cash at par

in 1904, the company has issued bonds of a par value of \$274,000, which netted 90 per cent of par to the company. From both issues, therefore, the company obtained in cash \$463,600. The proceeds of the first issue were used, it is claimed, to pay certain obligations incurred prior to the merger; the proceeds of the latter went to pay for extensions to plant, mains, services, meters, etc.

It was stated at the hearings that approximately \$190,000 had been expended upon the plant out of earnings, but an examination of the balance sheets seems to indicate that this was an error. The total net income of the company to December 31, 1908, was approximately \$330,000. Of this amount, \$130,000 were paid out in dividends, leaving nearly \$200,000 to be accounted for. During the same period the increase in current assets was over \$190,000, and accounts payable and bills payable were decreased by approximately \$120,000. Current liabilities had increased about \$80,000. From an analysis of these figures and the other items on the books of the company, it is apparent that net earnings, after paying dividends, were used either to increase the current assets or in part to decrease accounts payable and bills payable. If the latter were true, then the increase in current liabilities was used to make the extensions to plant and equipment which the officers of the company said have been made. In either case, it cannot be said that earnings have been used to any large degree to extend the plant, but they may have been used to increase current assets.

These are important facts, for the company has admitted that prior to January 1, 1909, no amounts have been set aside from earnings for depreciation, reserves or insurance. Beginning with the current year, under an order of the Commission, a depreciation fund will be accumulated, and in view of all of the facts, it is essential that the company should use its earnings to build up its plant or accumulate a fund for so doing in preference to payment of dividends.

In the original application, the Kings County Lighting Company applied for the approval of the Commission to issue \$450,000, par value, of bonds under the \$5,000,000 mortgage for the following purposes:

1. To retire \$250,000, par value, of the five per cent debenture bonds falling due January, 1910.
2. To acquire property and construct extensions and betterments of its plant to the extent of \$200,000.

At the last hearing, the company withdrew so much of its application as relates to the refunding of the debentures, stating that this matter would be taken up separately and at a later date. The only question remaining, therefore, is the issuance of bonds under the general mortgage for extensions and betterments as follows:

1. Building of bulkhead.....	\$15,000
2. Water gas set, capacity 2,000,000 cu. ft. per day	27,000
3. Scrubber, condenser, boiler, boiler house, oil tank, etc.	55,500
4. Street mains	65,000
5. House services	25,000
6. Consumers' meters	35,000
Total	<u>\$222,500</u>

The engineer of the company testified that the capacity of the present plant had been reached and that if an additional water gas set were not constructed this summer or fall, the demand would probably exceed the capacity at certain times next winter. The area of supply is the Thirtieth Ward of Brooklyn—the Bay Ridge, Fort Hamilton and New Utrecht section, which is growing steadily and which is supplied by no other gas company. Under such conditions, the proposed expenditure is considered wise.

During the investigation made in connection with this application, certain questions arose as to the franchise and rights of this company. Some of these questions may not be settled until the matter has been litigated or other decisions handed down by the courts. However, it is not believed that these questions are so serious as to interfere with the approval of the application.

Formal order approving the issue is herewith submitted.

Thereupon the following final order was issued:

In the Matter
of the
Application of the KINGS COUNTY LIGHTING
COMPANY for the approval of an issue of
bonds of the par value of \$450,000, secured by
a certain mortgage to the CENTRAL TRUST
COMPANY of New York, said bonds to be
issued to retire \$250,000, 5 per cent debenture
bonds falling due January 1, 1910, and for
other purposes.

Case No. 1110
Order Approving Issue
of Bonds
July 2, 1909

The Kings County Lighting Company having by its petition verified May 14, 1909, made application to the Public Service Commission for the First District under section 69 of the Public Service Commissions Law for an order approving an issue of bonds of the par value of four hundred fifty thousand dollars (\$450,000) secured by a certain mortgage to the Central Trust Company of New York, said bonds to be issued to retire two hundred fifty thousand dollars (\$250,000) of 5 per cent debenture bonds falling due January 1, 1910, and for the extension and improvement of its plant and distributing system as in said petition set forth, and the Commission having made an order on May 18, 1909, directing that said application be heard on June 1, 1909, and that the petitioner publish a notice of said application and of the time and place of said hearing in the manner and as provided in said order, and due proof having been filed of the publication of said notice accordingly, and said application having been heard on the 1st, 8th, 15th, 24th, and 28th days of June, 1909, Mr. J. W. Searing, of counsel for said petitioner, appearing in support of said application and no one appearing in opposition thereto, and said petitioner having on the 15th day of June, 1909, presented its amended petition, and the Commission having made due investigation and having examined witnesses, books, papers, documents and con-

tracts to enable it to reach a determination, and said petitioner having voluntarily withdrawn or amended its said application so as to limit it to an issue of bonds to the amount of two hundred thousand dollars (\$200,000) to provide only for the extension and improvement of its plant and distributing system, as in said petition set forth, and the Commission being of the opinion that the use of the capital to be secured by the issue of said bonds to the amount of two hundred thousand dollars (\$200,000) is reasonably required for the purposes aforesaid, it is

Ordered: That the Public Service Commission for the First District does hereby authorize the issue of two hundred thousand dollars (\$200,000) face value of bonds under the mortgage and in pursuance of the terms thereof, heretofore and on July 1, 1904, made and executed by the said Kings County Lighting Company to the Central Trust Company of New York, covering all of its property and franchises to secure the payment of five thousand (5,000) bonds of the par value of one thousand dollars (\$1,000) each, payable July 1, 1954; and it is further

Ordered: That said issue of said bonds is authorized upon the conditions following, and not otherwise, to wit:

1. That the Kings County Lighting Company may sell the bonds hereby authorized, but only so many thereof as shall be necessary to realize an amount to defray the expenses of providing for the extension and improvement of its plant and distributing system as in said petition set forth.

2. Unless said bonds shall be sold at private sale at not less than par after payment of all commissions and expenses, the Treasurer of said company shall invite proposals for the purchase of said bonds to be publicly advertised daily for not less than six days in at least four daily newspapers published in the City of New York to the end that the time and place of sale shall be generally known, and said Treasurer shall award said bonds to the highest bidder or bidders therefor. Said proposals shall be opened publicly by said Treasurer in the presence of the Public Service Commissioners for the First District, or such of them as shall attend at the time and place specified in said public advertisement. It shall be a condition of said sale, and the advertisement calling for proposals therefor shall so declare, that any bidder may bid as to said bonds for all or none at one price, or for all or any part at one price, or for portions of said bonds at different prices, and any bidder who shall bid for a portion of said bonds may be required to accept a part of the amount bid for by him at the same rate or proportion as may be specified in his bid, and any bid which conflicts with this condition may be rejected; and if the Board of Directors deems it to be for the interest of the company so to do it may award the bonds to the bidder offering the highest price for all or a number of said bonds, provided, however, that if the Board of Directors deems it to be in the interest of said company it may reject all bids. Said Board of Directors may prescribe such other conditions incident to and providing for the proposal for the purpose of said bonds as to said Board may seem fit.

3. That said company shall keep true and correct accounts showing the

application by it of the proceeds of the sale of all bonds authorized to be issued hereby, and said accounts shall be audited from time to time by an impartial accountant or accountants appointed for such purpose by the Commission.

4. That no part of the proceeds of the sale of said bonds shall be expended for the extension or improvement of the plant and distributing system of said Kings County Lighting Company outside of the Thirtieth Ward of the Borough of Brooklyn, City of New York, except on land belonging to said company.

5. That the entire proceeds of the sale of said bonds shall be expended for the purposes aforesaid and not later than July third, nineteen hundred eleven.

The company having made application for an amendment to the above order, the Commission issued the following order:

CASE NO. 1110. ORDER AMENDING ORDER OF JULY 6, 1909, APPROVING ISSUE OF BONDS.

(October 22, 1909.)

An order having been duly made herein on the 6th day of July, 1909, authorizing the Kings County Lighting Company to issue \$200,000 face value of bonds upon the terms and conditions therein set forth, which order provided, among other things, that said bonds might be sold at private sale at not less than par after payment of all commissions and expenses, and the said company having duly made application for an order amending said order to provide that said bonds may be sold at private sale at not less than ninety-seven and one-half per cent. ($97\frac{1}{2}\%$) of the par value thereof and interest after payment of all commissions and expenses, and good reason appearing therefor, it is

Ordered: That said order be and the same hereby is amended so as to read as follows:

The Kings County Lighting Company having by its petition verified May 14, 1909, made application to the Public Service Commission for the First District under section 69 of the Public Service Commissions Law for an order approving an issue of bonds of the par value of four hundred fifty thousand dollars (\$450,000) secured by a certain mortgage to the Central Trust Company of New York, said bonds to be issued to retire two hundred fifty thousand dollars (\$250,000) of 5 per cent. debenture bonds falling due January 1, 1910, and for the extension and improvement of its plant and distributing system as in said petition set forth, and the Commission having made an order on May 18, 1909, directing that said application be heard on June 1, 1909, and that the petitioner publish a notice of said application and of the time and place of said hearing in the manner and as provided in said order, and due proof having been filed of the publication of said notice accordingly, and said application having been heard on the 1st, 8th, 15th, 24th and 28th days of June, 1909, Mr. J. W. Searing of Counsel for said

petitioner appearing in support of said application, and no one appearing in opposition thereto, and said petitioner having on the 15th day of June, 1909, presented its amended petition, and the Commission having made due investigation and having examined witnesses, books, papers, documents and contracts to enable it to reach a determination and said petitioner having voluntarily withdrawn or amended its said application so as to limit it to an issue of bonds to the amount of two hundred thousand dollars (\$200,000) to provide only for the extension and improvement of its plant and distributing system, as in said petition set forth, and the Commission being of opinion that the use of the capital to be secured by the issue of said bonds to the amount of two hundred thousand dollars (\$200,000) is reasonably required for the purposes aforesaid, it is

Ordered: That the Public Service Commission for the First District does hereby authorize the issue of two hundred thousand dollars (\$200,000) face value of bonds under the mortgage and in pursuance of the terms thereof, heretofore and on July 1, 1904, made and executed by the said Kings County Lighting Company to the Central Trust Company of New York, covering all of its property and franchises to secure the payment of five thousand (5,000) bonds of the par value of one thousand dollars (\$1,000) each, payable July 1, 1954; and it is further

Ordered: That said issue of said bonds is authorized upon the conditions following, and not otherwise, to wit:

1. That the Kings County Lighting Company may sell the bonds hereby authorized, but only so many thereof as shall be necessary to realize an amount to defray the expenses of providing for the extension and improvement of its plant and distributing system as in said petition set forth.

2. Unless said bonds shall be sold at private sale at not less than ninety-seven and one-half per cent. (97½%) of the par value thereof and interest after payment of all commissions and expenses, the Treasurer of said company shall invite proposals for the purchase of said bonds to be publicly advertised daily for not less than six days in at least four daily newspapers published in the City of New York, to the end that the time and place of sale shall be generally known, and said Treasurer shall award said bonds to the highest bidder or bidders therefor. Said proposals shall be opened publicly by said Treasurer in the presence of the Public Service Commissioners for the First District, or such of them as shall attend at the time and place specified in said public advertisement. It shall be a condition of said sale, and the advertisement calling for proposals therefor shall so declare, that any bidder may bid as to said bonds for all or none at one price, or for all or any part at one price, or for portions of said bonds at different prices, and any bidder who shall bid for a portion of said bonds may be required to accept a part of the amount bid for by him at the same rate or proportion as may be specified in his bid, and any bid which conflicts with this condition may be rejected; and if the Board of Directors deems it to be for the interest of the company so to do it may award the bonds to the bidder offering the highest price for all or a number of said bonds, provided, however, that if the Board of Directors deems it to be in the interest of said company it may reject all bids. Said Board of Directors may prescribe such other conditions incident to and providing for the proposal for the purpose of said bonds as to said Board may seem fit.

3. That said company shall keep true and correct accounts showing the application by it of the proceeds of the sale of all bonds authorized to be issued hereby, and said accounts shall be audited from time to time by an impartial accountant or accountants appointed for such purpose by the Commission.

4. That no part of the proceeds of the sale of said bonds shall be expended for the extension or improvement of the plant and distributing system of said Kings County Lighting Company outside of the Thirtieth Ward of the Borough of Brooklyn, City of New York, except on land belonging to said company.

5. That the entire proceeds of the sale of said bonds shall be expended for the purposes aforesaid not later than July third, nineteen hundred eleven.

Interborough Rapid Transit Company.— Application for authority to issue \$10,000,000 of bonds.

<p>In the Matter of the Application of the INTERBOROUGH RAPID TRANSIT COMPANY for approval of ten million dollar bond issue.</p>
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Case No. 1115
Discontinuance Order
June 29, 1909.

An application having been received from the Interborough Rapid Transit Company, requesting the authorization of the Commission to issue ten million dollars of bonds, under the terms of the mortgage and deed of trust executed by the Interborough Rapid Transit Company to Morton Trust Company, dated November 1st, 1907, and it appearing that under the provisions of the said mortgage and deed of trust it is obligatory upon the Trustee to issue and deliver bonds upon the contingencies covered by that instrument, it is hereby

Ordered: That no action on the part of the Commission is necessary in the premises, and that the said application be discontinued.

Long Island Electric Railway Company.— Application for approval of reduction of capital stock.

Case No. 1128

Hearing Order
Opinion of the Commission
Final Order

The company, on June 11, 1909, petitioned the Commission praying its consent and approval of a reduction of the capital stock of the company. The Commission, on June 29th, directed

(see blank form of hearing order, page 9), that a hearing be had on said petition on August 13th, and that the company mail to each stockholder of record a notice of the time, place and purpose of the hearing and file proof of service of such notice with the Secretary of the Commission on or before the opening of the said hearing. Hearings were held on August 13 and 18, 1909.

OPINION OF THE COMMISSION.

(Adopted August 27, 1909.)

COMMISSIONER BASSETT:—

The Long Island Electric Railway Company is a street surface railroad corporation duly organized under the Railroad Law, and owning and operating by electric power a surface railroad about 17 miles in length, extending from the Borough of Brooklyn to Jamaica and Far Rockaway in the Borough of Queens, with a branch to Belmont Park. It was originally organized with an authorized capital of \$600,000. In 1899 it was consolidated with the New York and North Shore Railway Company and the name of the company formed by the consolidation was New York & North Shore Railway Company. Such company resulting from the consolidation was authorized to have \$2,100,000 capital stock, the agreement of consolidation stating that the capital stock of the Long Island Electric Railway Company was \$600,000 and of the New York and North Shore Railway Company \$1,500,000. The property of the New York and North Shore Railway Company before consolidation was incumbered by mortgage bonds amounting to \$1,261,000. After consolidation default took place in the payment of interest upon these bonds and the mortgage securing the same was foreclosed and the mortgage premises and property were purchased in the interest of the bondholders. After this the only property remaining in the ownership of the New York and North Shore Railway Company was the property which had been acquired by the Long Island Electric Railway Company prior to the consolidation. Thereafter and in 1903 the name of the corporation resulting from the consolidation was changed to Long Island Electric Railway Company. The present company has obtained the surrender to it of all of the stock of the original New York and North Shore Railway Company, being \$1,500,000 par value, and now desiring to cancel this stock applies to the Commission to approve the proposed reduction of the capital stock of the company from \$2,100,000 to \$600,000.

Section 64 of the Stock Corporation Law provides that in the case of the reduction of the capital stock of a railroad corporation the certificate or the unanimous consent of the stockholders, as the case may be, shall have endorsed thereon the approval of the Public Service Commission having jurisdiction. The applicant corporation requests that the Commission will authorize the endorsement of such approval. No one appeared at the hearing to oppose the application.

Quite apart from the bonds above referred to, the present company has a bonded indebtedness of \$600,000. The last report, that of June 30, 1909, shows other liabilities, such as interest on funded debt \$107,500; accrued

taxes \$6,787.66, and sums due for wages and to other companies and individuals \$8,802.21. The company owns

Single track	16.70 miles
Second track	8.70 miles
Sidings	1.34 miles

Total	26.74 miles
-----------------	-------------

The major portion of the above mentioned track is paved with either brick or stone paving. There are 37 passenger cars, 5 sweepers and work cars. Its real estate consists of about 2 acres of land in Jamaica with some small car barns and unused power station and machinery; a house and lot in Jamaica used for office purposes and certain station and terminal property in Far Rockaway. The company at present buys its electric current and owns a small converting plant. The vice-president and general manager of the corporation testifies that the fair value of all of the property of the company would not exceed \$1,200,000.

In my opinion \$600,000 capital is ample for the conduct of this company's business, and I recommend the endorsement of the Commission's approval on the certificate of unanimous consent reducing the capital stock from \$2,100,000 to this figure.

Thereupon the following order was issued:

In the Matter of the	
Application of the LONG ISLAND ELECTRIC RAILWAY COMPANY for the approval of a proposed reduction of the capital stock of the company from \$2,100,000 to \$600,000 pursuant to the provisions of sections 62 and 64 of Article 2 of chapter 59 of the Consolidated Laws (Stock Corporation Law).	Case No. 1128
	Order Granting Application
	August 27, 1909

Application having been made to this Commission by the Long Island Electric Railway Company by petition verified June 11, 1909, pursuant to sections 62 and 64 of article II of chapter 59 of the Consolidated Laws (Stock Corporation Law) for the approval by the Public Service Commission for the First District of a reduction of the capital stock of said company from \$2,100,000.00 to \$600,000.00,

And a hearing having been had on said application on August 13 and August 18, 1909, before Commissioner Bassett, presiding, Harry M. Chamberlain, Esq., assistant counsel, appearing for the Commission, and F. S. McGrath, Esq., attorney, appearing for the Long Island Electric Railway Company; and said company having filed proof of service on each stockholder of record of a notice of the time, place and purpose of said hearing as required by the Commission, and having made its proofs whereby it satisfied the Commission that the reduction of capital stock desired by the company would be proper,

Now, therefore, it is

Ordered: That said application be and the same hereby is granted, and that the approval by the Public Service Commission for the First District of the reduction of capital stock aforesaid be indorsed upon the unanimous consents of stockholders accompanying the petition herein, in the following manner, to wit:

“ Approved this day of August, 1909.

.....

Public Service Commission for the First District.

Attest:

.....

Secretary.”

—

Nassau Electric Railroad Company.— Application for authority to issue \$730,000 of bonds.

Case No. 1163

Hearing Order

Opinion of the Commission

Final Order

The company, on September 17, 1909, petitioned the Commission praying its consent and approval of an issue of \$730,000 of bonds. The Commission, on September 21st, directed (see blank form of hearing order, page 9) that a hearing be had on said petition September 27th, and that the company publish due notice thereof. A hearing was held September 27, 1909.

OPINION OF THE COMMISSION.

(Adopted September 30, 1909.)

COMMISSIONER MCCARROLL:—

This is an application by the Nassau Electric Railroad Company for the approval of an issue of bonds of the par value of \$730,000.00 to retire a like amount of first consolidated mortgage bonds of Atlantic Avenue Railroad Company.

The bonds for which approval is sought are part of a total issue of \$15,000,000.00, secured by the first consolidated mortgage of the Nassau Electric Railroad Company, made to the Guaranty Trust Company of New York as trustee, which mortgage bears date June 30, 1898, and is recorded in the office of the Register of the County of Kings on January 14, 1899, in Liber 12 of mortgages (Section 1,) at page 392, and in other libers. By the terms of that mortgage it is provided that out of the \$15,000,000.00 of bonds to be secured by the mortgage, bonds shall be reserved to retire underlying obligations on the property of the Nassau Electric Railroad Company. It appears from the evidence offered by the company in support of the pending application that the first consolidated bonds of the Nassau Electric Railroad Company outstanding at present amount to \$10,726,000.00 and that the amount of bonds reserved for the retirement of underlying obligations is \$4,274,000.00. This latter amount includes the \$730,000.00 of bonds reserved to retire first consolidated Atlantic Avenue bonds, and it is the issue of these \$730,000.00 of reserved bonds for which approval is sought, in order to effect the retirement of these first consolidated Atlantic Avenue bonds. The Atlantic Avenue bonds represent the balance outstanding of an issue of \$900,000.00, secured by a first consolidated mortgage of the Atlantic Avenue Railroad Company to the Brooklyn Trust Company dated September 30, 1874, and recorded in the office of the Register of the County of Kings on that date in Liber 1700 of mortgages, page 474. These bonds mature on October 1, 1909. They are a lien upon a large and very important part of the property of the Nassau Electric Railroad Company, which absorbed the Atlantic Avenue Railroad Company by merger on the 26th day of January, 1899.

There is no doubt that the issue of these reserved first consolidated mortgage bonds of the Nassau Electric Railroad Company of the par value of \$730,000.00 is reasonably required for the purposes of the Nassau Company and particularly for the discharge or lawful refunding of its obligations. The outstanding Atlantic Avenue bonds represent a valid and binding obligation of the Nassau Company. The debt is one in which the Nassau Company is liable as principal, as the successor of the Atlantic Avenue Railroad Company which is merged with it. The debt is also, as I have said, a lien upon an essential part of the company's property. The debt must be met on the first day of October, and obviously a default would be a matter of serious consequences to the company.

On the date of its last monthly report, namely, August 31, 1909, the company reported assets consisting of

Cash	\$430,935 52
Bills and accounts receivable and other quick assets equivalent to cash of.....	1,047,845 39

The evidence showed, however, that these could not be made available for the payment and retirement of these maturing bonds because of obligations due or about maturing.

The statement of the company under date of September 27, which was submitted, reported obligations due October 1 consisting mainly of

Interest on bonds of.....	\$106,800 00
Additional to the amount of the bonds before us in this case of \$730,000 the interest being	18,250 00
Also showed,	
Current accounts payable, audited on August 31, of	395,073 57
Real estate and franchise taxes amounting to	304,145 85
Interest on Certificates of Indebtedness....	54,530 31
In addition to these,	
Interest due on January 1, 1910.....	220,020 00
Making a total of.....	<hr/> \$1,098,819 73

In addition to these there are demand obligations of the company in Certificates of Indebtedness, amounting to \$3,631,428.43.

From this showing it is apparent that this company could not apply these assets to the payment of the bonds. It is, therefore, necessary for it to refund in the manner proposed.

In view of the necessity that is imposed on the company of providing for the \$730,000.00 of outstanding Atlantic Avenue railroad bonds on October 1, and in view of the apparent impossibility of providing for these bonds otherwise than by an issue of new securities, I have not examined into the propriety of the Nassau Electric Company's first consolidated mortgage of June 30, 1898, under which it is proposed to issue the new bonds. Under all the circumstances of the company's condition, of the existing mortgage which provides for the issue of the proposed bonds without placing any additional lien upon the company's property, and without increasing its obligations, in view of the notice given by the existing mortgage to other security holders and all parties interested, and having special regard to the fact that the issue of the new bonds will effect a reduction of one per cent. in interest charges, namely, from five per cent. to four per cent. on the bonds in question, I believe that the Commission is warranted in approving of the proposed issue of \$730,000.00 of Nassau Electric Company's first consolidated bonds and in granting permission for said issue. I so recommend. In taking this action, it should be distinctly understood that the approval of this issue of \$730,000.00 of bonds involves no approval of any bonds previously issued under the Nassau Company's first consolidated mortgage.

I think the Commission's order of approval should contain a provision for the audit of this bond issue and for proper certification to the Commission that the Nassau Company has retired the \$730,000.00 of Atlantic Avenue bonds within a reasonable time after the granting of permission to issue the new Nassau bonds.

It is to be regretted that the mortgage under which these new bonds are to be issued contains no provision for the amortization of the debt, but I see no way of incorporating such provision into the existing mortgage, and a sound policy dictates that the existing consolidated mortgage should be used rather than to create an additional and independent mortgage for this small amount of bonds.

Thereupon the following final order was issued:

In the Matter
of the
Application of the NASSAU ELECTRIC RAIL-
ROAD COMPANY for the approval of a pro-
posed Issue of \$730,000 par value of Bonds
under its First Consolidated Mortgage, bearing
date June 30, 1898, and recorded in the office
of the Register of the County of Kings on
January 14, 1899.

Case No. 1163
Final Order
September 30, 1909

WHEREAS, Nassau Electric Railroad Company filed with the Public Service Commission for the First District its petition, verified the 17th day of September, 1909, praying the approval by said Commission of an issue by said company of bonds of the par value of \$730,000 under a mortgage to the Guaranty Trust Company of New York as Trustee, bearing date June 30, 1898, and recorded in the office of the Register of the County of Kings on January 14, 1899, said bonds to be issued to retire \$730,000 par value of First Consolidated Mortgage Bonds of Atlantic Avenue Railroad Company, falling due October 1, 1909, and

WHEREAS, The said Public Service Commission did thereupon, by order dated September 21, 1909, direct the said petition to be heard on Monday, September 27, at 10:00 A. M., and that the petitioner publish a notice of the said application and of the time and place of the said hearing in the manner and as provided in said order; and the petitioner did thereupon cause notice of said application and of the time and place of said hearing to be published in pursuance of such order and did file proof thereof with the Secretary of the said Commission before the opening of the said hearing, and the matter coming on to be heard upon the said petition and said petitioner having duly appeared by George D. Yeomans, its counsel, and the petitioner having submitted proofs in support of said application, and the Commission having taken testimony and having examined the books and accounts of the petitioner, and the Commission being of the opinion after said hearing and examination that the use of the capital to be secured by the issue of said bonds of the Nassau Electric Railroad Company of the par value of \$730,000 is reasonably required for the discharge or lawful refunding of said company's obligations,

Ordered: That the Public Service Commission for the First District does hereby consent to and approve the issue by the said petitioner, Nassau Electric Railroad Company, of bonds of the par value of \$730,000, secured by said mortgage to the Guaranty Trust Company of New York as Trustee, bearing date June 30, 1898, to retire said First Consolidated Mortgage Bonds of Atlantic Avenue Railroad Company, falling due October 1, 1909, said bonds of the Nassau Electric Railroad Company, which are to be issued, to be the bonds provided for in said mortgage of June 30, 1898, and reserved for the retirement of said Atlantic Avenue Bonds, and to be issued par for par; and it is further

Ordered: That said Nassau Electric Railroad Company keep true and correct accounts showing the application by it of all bonds issued under this order

and of the proceeds of the sale of said bonds and showing also the receipt and application by said company of the proceeds of the sale of all property at any time subject to the lien of the mortgage which may be sold free from such lien, which accounts shall at all reasonable times be subject to inspection by bondholders as well as by the Public Service Commission; and it is further

Ordered: That within thirty days from the date of this order said Nassau Electric Railroad Company file with said Commission a properly verified certificate that said bonds of Atlantic Avenue Railroad Company, outstanding on the 30th day of September, 1909, of the par value of \$730,000, or of an amount equal in par value to the par value of the bonds of said Nassau Electric Railroad Company, issued under this order, have been retired and canceled and are no longer of any force or effect.

Pelham Park Railroad Company.— Application for authority to issue \$50,000 of bonds.

Case No. 1096

Hearing Order

Discontinuance Order

The Company, on April 7, 1909, petitioned the Commission praying its consent and approval of an issue of bonds of the par value of \$50,000, for the purpose of retiring a certain bond and mortgage dated November 13, 1902, and for the purpose of additional construction, improvement and betterment as set forth in the petition. The Commission, on April 12th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on April 24th, and that the company publish due notice thereof. Hearings were held on April 24 and 28, 1909. The company having withdrawn its application, the following discontinuance order was issued:

<p>In the Matter of the Application of the PELHAM PARK RAILROAD COMPANY for authority to issue bonds, par value fifty thousand dollars (\$50,000).</p>
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Case No. 1096
Discontinuance Order
November 30, 1909

The Pelham Park Railroad Company having, in writing, dated November 26, 1909, withdrawn its application, verified April 7, 1909, in the above entitled proceeding, it is

Ordered: That the above entitled proceeding be and the same hereby is discontinued, without prejudice to a renewal of said application.

South Flatbush Railroad Company.— Application for authority to issue \$30,000 of bonds.

Case No. 1114

Discontinuance Order

The company, on June 7, 1909, petitioned the Commission praying its consent and approval of an issue of bonds of the par value of \$30,000. The company subsequently withdrew its petition, whereupon the following order was issued:

In the Matter
of the
Application of SOUTH FLATBUSH RAILROAD
COMPANY, under section 55 of the Public
Service Commissions Law, for leave to issue
\$30,000 bonds.

Case No. 1114
Discontinuance Order
July 2, 1909.

Ordered: That the proceedings herein be, and the same hereby are, discontinued.

Spuyten Duyvil and Port Morris Railroad Company.— Application for authority to issue \$2,500,000 of bonds.

Case No. 1127

Hearing Order
Final Order

The company, on June 25, 1909, petitioned the Commission, praying for authority to execute a first mortgage on its property to secure bonds to an amount not exceeding \$20,000,000, and to assume bonds to be issued thereunder to the extent of \$2,500,000. The Commission, on June 29th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on July 14th, and that the company publish due notice thereof. A hearing was held on July 14, 1909. The following final order was issued:

STATE OF NEW YORK, PUBLIC SERVICE COMMISSION FOR THE
FIRST DISTRICT.

CASE No. 1127, APPROVAL ORDER.
(August 3, 1909.)

The Spuyten Duyvil and Port Morris Railroad Company having presented to this Commission its petition dated June 23, 1909, praying that the Commission authorize it to execute an indenture and agreement accompanying the

petition and hereinafter more particularly described, and to assume the payment of bonds to be secured by a mortgage upon its property; and a hearing on said petition having been had, on due notice, at the office of the Commission on July 14, 1909, Commissioner Eustis presiding, Albert H. Harris appearing for the petitioner;

Now, upon the aforesaid petition, papers filed and evidence taken at the hearing, and after due deliberation, it appearing that the use of the capital to be secured by the issue of such bonds is reasonably required for the purposes of the petitioner as set forth in said petition, it is

Ordered: 1. That The Spuyten Duyvil and Port Morris Railroad Company be, and it hereby is, authorized to enter into, execute and deliver the indenture and agreement dated the 1st day of June, 1909, a copy of which is filed with the petition herein, said indenture and agreement being made by The Spuyten Duyvil and Port Morris Railroad Company as party of the first part, The New York Central and Hudson River Railroad Company, as party of the second part, and the Central Trust Company of New York, as Trustee, as party of the third part.

Ordered: 2. That The Spuyten Duyvil and Port Morris Railroad Company be, and it hereby is, authorized to assume the bonds to be issued by The New York Central and Hudson River Railroad Company as provided in said indenture to the amount of \$2,500,000, to bear interest at the rate of $3\frac{1}{2}$ per cent per annum and to be sold for not less than 95 per cent of their par value. Two million, three hundred and forty-one thousand dollars (\$2,341,000) of said bonds (less the proportionate amount of discount thereon, if any) are to be so assumed to refund, to that extent, the expenditures for additions, improvements and betterments made by The New York Central and Hudson River Railroad Company, as lessee, upon the property of said The Spuyten Duyvil and Port Morris Railroad Company up to November 30, 1908, as provided for in the lease from said company to The New York Central and Hudson River Railroad Company, dated May 19, 1909, and one hundred and fifty-nine thousand dollars (\$159,000) of said bonds (less the proportionate amount of discount thereon, if any) are to be assumed to provide for expenditures for permanent additions, improvements and betterments to said demised premises.

(Signed) JOHN E. EUSTIS,
Commissioner.

Dated July 14, 1909.

Ordered: That the Public Service Commission hereby approves and confirms the foregoing Order and orders the same filed in its office.

Third Avenue Railroad Company.— Application by Bondholders' Committee for authority to issue bonds and for approval of an issue of capital stock by a new company under a plan for reorganization.

Case No. 1181

Hearing Order

A committee of bondholders representing holders of bonds issued under a first consolidated mortgage of the Third Avenue Railroad Company, dated May 15, 1900, having prepared a plan of reorganization of the company which contemplated the formation of a new company and the issue by it of new securities, petitioned the Commission on December 2, 1909, praying its consent and approval to the plan and agreement for reorganization and for authority to issue \$16,590,000 of capital stock by the new company and \$15,790,000 first refunding mortgage bonds and \$22,536,000 adjustment mortgage income bonds. The Commission, on December 7th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition and application on December 15th, and that prior to the time of said hearing, the company file with the Commission twenty-five copies of the petition and plan for reorganization and publish due notice of the time and place of said hearing. Hearings were held on December 15th and subsequently until December 30, 1909, when the matter was adjourned to January 5, 1910.

Bondholders' Committee, Third Avenue Railroad Company.—

Application for approval of issue of bonds under plan of reorganization.

Case No. 1126

Hearing Order

Opinion of the Commission

Order denying application

The Bondholders' Committee of the Third Avenue Railroad Company, consisting of Messrs. James N. Wallace, Adrian Iselin, Edmund D. Randolph, Mortimer L. Schiff, James Timpson and Harry Bronner, having made application for approval of the issue of \$16,516,800 of refunding mortgage bonds, \$32,000,000 of ad-

justment mortgage 5 per cent cumulative bonds and \$20,000,000 of capital stock by a new company contemplated in the plan of reorganization of the property of said Third Avenue Railroad Company, the Commission, on June 25, 1909, issued an order directing (see blank form of hearing order, page 9) that a hearing be had upon said application on June 30th. Hearings were held on that day and subsequently until July 12, 1909.

OPINION OF THE COMMISSION.
(Adopted September 29, 1909.)

COMMISSIONERS WILLCOX AND MALTBIE: —

For some time prior to September 24, 1907, the lines now included in the system of the Third Avenue Railroad Company and its subsidiary companies were operated under lease by the New York City Railway Company. Upon that date receivers were appointed for the New York City Company because of its inability to pay certain obligations. Upon January 12, 1908, Mr. F. W. Whitridge took charge of the Third Avenue road as receiver, having been appointed by the Federal Court. The receivership was created as a result of a suit brought by the Central Trust Company as trustee for the holders of the first consolidated bonds of the Third Avenue Railroad Company, interest for six months on said bonds not having been paid. As no interest has since been paid, interest is now due for two years. A foreclosure sale has been ordered by the court, the date for which has been changed from time to time.

GENERAL PLAN OF REORGANIZATION.

A committee of bondholders has been formed, representing over \$34,000,000 in bonds out of an issue of \$37,560,000, who now come before the Commission proposing a plan of reorganization. Their application states that they intend to purchase the property at foreclosure sale and to organize a new corporation to which they will transfer the property, provided the Commission will approve the issuance of new securities as proposed. The Third Avenue Railroad Company owns not only its own railroad system but an amount of stock in several subsidiary companies sufficient to control them. These companies are the 42d Street, Manhattanville & St. Nicholas Avenue Railway Company, the Dry Dock, East Broadway & Battery Railroad Company, the Kingsbridge Railway Company, the Union Railway Company, the Southern Boulevard Company, the Bronx Traction Company, the Westchester Electric Railroad Company, the Yonkers Railroad Company, and the Tarrytown, White Plains & Mamaroneck Railroad Company.

The applicants ask for the consent and approval of the Commission to the issuance of the following securities:

\$16,516,800 in first refunding mortgage bonds,
32,000,000 in cumulative adjustment mortgage bonds,
20,000,000 in common stock,

\$68,516,800 in securities of all classes.

The first mortgage bonds, bearing 5 per cent interest and maturing July 1, 1937, of a face value of \$5,000,000 are to remain outstanding and are to constitute the first lien upon the property of the new company. Adding these to the total just given, there would be outstanding, if the above securities be issued, a total of \$73,516,800.

The proposed first *refunding* mortgage bonds are to rank second in order, bearing 4 per cent interest and maturing July 1, 1959. They may be redeemed at 105 per cent and accrued interest after July 1, 1914.

The proposed cumulative *adjustment* bonds will rank after the refunding bonds. Interest is to be paid only when earned, and the failure to pay 5 per cent interest will not entitle the holders to begin foreclosure proceedings. The holders are to be given the right to elect a majority of the directors until full interest, including accumulations, shall have been received for five consecutive years. These bonds are to be redeemable in whole, but not in part, with accrued interest upon any interest date. Although called bonds, these securities are practically stock with a preference as to assets and earnings. It was admitted at the hearings that the term "bonds" was used instead of "stock" in order to enable insurance companies to hold them under the law.

The common stock naturally ranks after the three issues of bonds, and the holders, contrary to custom, are not to be entitled to elect a majority of the directors until full interest, including accumulations, shall have been paid for five consecutive years upon all bond issues.

The present securities of the Third Avenue Company are:

First mortgage bonds, 5 per cent, maturing July 1, 1937.....	\$5,000,000
First consolidated bonds, 4 per cent, maturing January 1, 2000..	37,560,000
Common stock	16,000,000
	<hr/>
Total securities	\$58,560,000
	<hr/> <hr/>

APPORTIONMENT OF NEW SECURITIES.

The securities of the new company are to be distributed as follows:

\$5,000,000 in refunding bonds to be delivered to an underwriting syndicate,
 10,716,800 of refunding bonds to holders of the present consolidated bonds,
 being 20 per cent (\$7,512,000) of the principal and defaulted
 interest for two years — 8 per cent (3,004,800) of the principal,
 1,000,000 of refunding bonds to be issued to pay for extensions,

\$16,516,800 in all.

\$30,048,000 of adjustment bonds to be issued to holders of the present consolidated bonds, being 80 per cent of the principal,

1,000,000 of adjustment bonds to be delivered to the underwriting syndicate,

952,000 in adjustment bonds to be reserved to take care of certain issues of subsidiary companies,

\$32,000,000 in all.

\$20,000,000 in common stock to go ultimately to the present stockholders of the Third Avenue Company, provided they pay an assessment of \$25 per share. In case any or all of the stockholders fail to pay their assessments, the stock allotted to them is to be delivered to the underwriting syndicate, which will pay the assessment and retain \$125 in stock for every assessment of \$25 paid.

Thus the holders of the present consolidated bonds are to receive:

Refunding bonds to the amount of.....	\$10,516,800
Adjustment bonds to the amount of.....	30,048,000
Total	<u>\$40,564,800</u>

This amount represents in consolidated bonds,

face value	\$37,560,000
and defaulted interest thereon.....	<u>3,004,800</u>

The present stockholders owning stock to the amount of \$16,000,000, par value, are to receive \$20,000,000 in common stock of the new company, provided they pay \$4,000,000 in cash.

The underwriting syndicate will receive \$20,000,000 in stock if the present stockholders do not pay \$4,000,000 in cash, and also:

Refunding bonds to the amount of.....	\$5,000,000
Adjustment bonds to the amount of.....	1,000,000
Total	<u>\$6,000,000</u>

The holders of certain claims against subsidiary companies are to receive \$952,000 in adjustment bonds, or so much thereof as is necessary to pay them off.

Comparing the total securities of the Third Avenue Company (\$58,560,000) with the total securities of the new company (\$73,516,800), it is evident that the applicants propose an increase of \$14,956,800:

\$4,000,000 in common stock for cash,

3,004,800 in refunding bonds to the present bondholders for interest,

952,000 in adjustment bonds to take up issues of subsidiary companies.

1,000,000 in adjustment bonds to be used to provide for necessary extensions,

6,000,000 in refunding and adjustment bonds to the underwriting syndicate, which is to provide \$3,500,000 in cash.

The issuance of \$13,000,000 in additional securities is, therefore, to pay interest (about \$3,000,000) and to provide about \$7,500,000 in cash, which is to be used for the following purposes:

Payment of receiver's certificates.....	\$3,000,000
Franchise taxes	1,000,000
Renewal of tracks	1,000,000

Reorganization expenses	\$900,000
"Other Companies"	1,600,000
	<hr/>
Total	\$7,500,000
	<hr/> <hr/>

STATUS OF APPLICANTS.

Upon the receipt of the application, hearings were held by the Commission at which testimony and arguments for and against the proposed plan were heard from stockholders and creditors as well as from the applicants. Briefs have been submitted and various decisions of judicial and administrative bodies cited. The questions presented relate to three subjects:

- I.— The standing of the Bondholders' Committee and of their application.
- II.— Jurisdiction of the Commission over such reorganizations.
- III.— Propriety and legality of the proposed scheme.

The applicants are a self-constituted committee of bondholders having no corporate existence. It might be successfully contended, therefore, that the committee has no standing in law before the Commission, that an order approving or disapproving their application can not properly be issued, and that formal action must be postponed until the new corporation has been formed, an application made and proof submitted.

This may or may not be the proper interpretation of the statutes, but the Commission believes that an opinion should be rendered upon the evidence presented and that the application should not be dismissed upon a technical ground without any discussion of the real issues involved. The Commission desires to facilitate an early reorganization of the Third Avenue system upon a sound and permanent basis, and believes that a decision setting forth the attitude of the Commission upon the questions presented in connection with this application will aid in this direction.

JURISDICTION OF THE COMMISSION.

Various opinions have been expressed as to the jurisdiction of the Commission over the issuance of securities in a reorganization such as proposed. The attorney for the applicants stated at the opening hearing:

"This is an application for the co-operation of the Public Service Commission in the reorganization of the Third Avenue Railroad Company. * * * The utmost that is asked from this Board [Commission] is what we respectfully represent is *a mere ministerial act, approving the securities which it is our right to issue under this plan.*"

In his brief counsel goes still further, stating:

"This is not an application for an order in pursuance of any of the provisions of the Public Service Statute, but it is an application that the Public Service Commission will indicate the position it will take in the matter. * * *

"The very fact that the Legislature has committed the matter of security issues in some particulars to the scrutiny of the Board would seem, in view of what is and is not found in the act, virtually conclusive evidence that this matter is not a subject to be submitted to the Board at all."

In other places in the brief, he seems to assume that the Commission has some legal jurisdiction and that approval is necessary, but attempts to work out a theory that the approval should be given perfunctorily. He says:

"At most the only orders that would be required from the Board would be ministerial acts approving the securities to be issued under the plan, and also approving the holding by the new corporation of the shares of stock covered by the mortgage under which the sale is to take place."

Now, it must be true that the Commission has jurisdiction or it has not. If it has no jurisdiction over the proposed reorganization, why has an application been made to the Commission? It is not customary for corporations or bondholders' committees to apply to the Commission for approval when no approval is necessary. Neither is it customary for the Commission to consider a matter at length unless it is one coming within its jurisdiction. If the Commission has no jurisdiction the case may be ended here, and the bondholders may proceed in their own way. But the fact that an application has been made leads to the inference that the applicants believe that the Commission has jurisdiction, and that is the opinion of the Commission. The Public Service Commissions Law is believed to apply in this case.

This brings us to the question: Is the function merely ministerial? The Commission does not believe that it is. The Public Service Commission is an administrative body, authorized in this instance to approve or disapprove the issuance of securities, subject to certain statutory provisions. It is not believed that the Legislature contemplated that action upon stock and bond issues should be perfunctory, or superficial, or even ministerial; but that a careful investigation should be made in every instance, that the interests of the investing public should be protected and that the corporation itself should be prevented from having recourse to those financial methods that have brought public service corporations into disrepute. Further, the Commission does not agree with the attorney for the applicants that, if the Commission refuses to permit representation in the capital of the new company of the value of franchises, it will be equivalent to taking property and rights without due process of law. All the property and rights of the old company would be transferred to the new, but there is no vested right to capitalize a franchise *ad libitum*, nor "to reorganize on the basis of the old securities." The statutes of the State of New York prohibit the capitalization of franchises, and no plan will be approved by this Commission which directly or indirectly runs contrary to express provisions of statute.

Upon this point, the decision of the United States Supreme Court in the case of *Memphis, etc., Railroad Co. v. Commissioners*, 112 U. S. 609 and 621, is very clear. The court said:

"In many, if not in most, acts of incorporation, however special in their nature, there are various provisions which are matters of general law and not of contract, and are, therefore, subject to modification or repeal. Such, in our opinion, would be the character of the right in the mortgage bondholders, or the purchasers at the sale under the mortgage, to organize as a corporation, after acquiring title to the mortgaged property, by sale under the mortgage, if, in the charter under consideration, it had been conferred in express terms, and particular

provision had been made as to the mode of procedure to effect the purpose. It would be matter of law and not of contract. At least, it would be construed as conferring only a right to organize as a corporation according to such laws as might be in force at the time when the actual organization should take place, and subject to such limitations as they might impose. It cannot, we think, be admitted that a statutory provision for becoming a corporation *in futuro* can become a contract, in the sense of that clause of the Constitution of the United States which prohibits State legislation impairing its obligation, until it has become vested as a right by an actual organization under it; and then it takes effect, as of that date and subject to such laws as may then be in force. Such a contract, so far as it seems to assume that form, is a provision merely that, at the time, or on the happening of the event specified, the parties designated may become a corporation according to the laws that may then be actually in force. The stipulation, whatever be its form, must be construed as subject and subordinate to the paramount policy of the State, and to the sovereign prerogative of deciding in the meantime, what shall constitute the essential characteristics of corporate existence. The State does not part with the franchise until it passes to the organized corporation; and when it is thus imparted, it must be what the government is then authorized to grant and does actually confer."

NO EVIDENCE OF ASSETS PRODUCED.

An examination of the evidence presented by the applicants in support of their plan reveals certain significant omissions. It is proposed to issue over \$68,000,000 in new securities; yet there is practically nothing on record regarding the value or amount of assets or property back of these securities. This omission is particularly striking in view of the fact that the Third Avenue Company is in the hands of a receiver and admittedly unable to pay the interest upon its bonded indebtedness, to say nothing of dividends upon its stock. Yet it is proposed to increase the capitalization of the company by nearly \$15,000,000, of which not more than \$6,500,000 will go to improve the tangible property. It would seem that before any sound and permanent basis of reorganization could be determined, it would be essential to have some definite idea of the actual value of the property. The applicants may have such information, but no inventory, partial or complete, appraisal or estimate even has been presented to the Commission. *In the absence of such important data, the Commission is wholly unable to reach the conclusion that a company unable to pay fixed charges and dividends upon \$58,560,000 of securities should be superseded by one having \$73,516,800 of stocks and bonds.*

In view of the many suits that have been pending between the various companies or their receivers and of the many claims and counter-claims that are still unsettled, amounting to many millions of dollars, even the list of amounts due the Third Avenue Company cannot be depended upon as accurate. The printed circular outlining the plan of reorganization states that the Third Avenue Company holds notes of other companies amounting to over \$18,310,000. But several of these companies are in the hands of receivers

for foreclosure and sale. In one instance the report of the referee states the "excess of liabilities over assets [is] at least \$1,337,366.08;" and after paying prior claims, there would be, it is estimated, about \$480,000 in assets to pay \$1,820,000 of notes, accounts, etc., nearly all of which are held by the Third Avenue Company or its subsidiaries. In another instance, the referee reports the "excess of liabilities over assets [is] at least \$1,257,666.95," and that after paying prior claims, there would be about \$28,000 in assets to pay \$1,286,000 of notes, accounts, etc. In this instance also, the Third Avenue Company and its subsidiaries hold \$1,282,000 in notes. Referee's reports were not submitted in evidence for other companies, but it is clear that the amount ultimately to be realized from these \$18,000,000 of claims is very uncertain, especially if the announced policy is successful of wiping out obligations due outside companies by foreclosure and sale of certain subsidiary companies, for then the obligations due the Third Avenue Company by these same companies would likewise not be paid.

Furthermore, if the *notes* of the various subsidiary companies are of little value, of what value is the stock of these companies, which is held by the Third Avenue Company and which must rank after all other obligations? The status of one company is shown by the following excerpt from a referee's report submitted in evidence:

"The Company has not only been unable to pay from its earnings the money advanced for its construction, a sum which constitutes the largest single item of its floating debt, but the testimony shows that for years the Company has not earned its operating expenses and has shown annually a very substantial deficit on those expenses from net earnings."

In reference to another company, the referee says:

"The testimony of the Treasurer of the Company as to the net earnings of the road shows that for many years the Company has been operated at a very substantial loss and that the net earnings by operation have been for years insufficient to pay the interest on the bonded and floating debt."

OVERCAPITALIZATION INDICATED.

Although there is no evidence on record to show the character or value of the assets of the Third Avenue Company, *there is evidence which seems to indicate, if it does not prove, that the present securities do not represent proper expenditures for capital purposes.* Mr. F. W. Whitridge, the Federal receiver, who was the only witness called by the applicants, testified as follows:

"BY MR. PERKINS:

Q. At the time the Third Avenue Railroad Company was reorganized, if I recollect aright, the amount that it owed was about \$20,000,000 or \$21,000,000, and a plan was then suggested and put through whereby \$37,500,000 of this present issue of bonds which are now threatening to foreclose was put ahead of the stock. I would like to know if you can make any statement as to what became of the difference between the amount, which was about \$21,000,000 or less than \$21,000,000, which

the company owed at that time and the amount of the bonds issued of \$37,500,000? A. I cannot.

Q. You do not know what has become of it? A. I do not know what has become of it.

MR. PERKINS: That is all.

THE WITNESS: I said I would find out, if somebody gave me \$200,000 or \$300,000 to spend on lawyers, but I did not think it was likely to be a profitable inquiry.

"BY CHAIRMAN WILLCOX:

Q. In your report to the Committee you said there was no evidence that that amount had been spent on the road? A. *I said in my judgment there was no evidence on the earth, under the earth or over the earth that that amount had been spent on the road.* * * *

"BY MR. BOWERS:

Q. Did you have reports made by accountants bearing upon these questions of the alleged disbursement of moneys on these different roads? A. There was a report prepared by the gentleman who is my auditor, covering that, and his report of course showed that the account accounted not only for the \$20,000,000 or \$23,000,000 or whatever it was which had been sanctioned by the court under the previous receivership, but that something like \$11,000,000 in addition had been expended on the property, and \$5,000,000 on top of that, which is represented by these notes. My statement that I never saw any evidence in the property of the expenditure of \$35,000,000 is in my judgment a statement for which I stand, but that has nothing to do with the account and what the accountants found in them. * * * The accountants have presented me reports showing how that was expended. I have looked at the property, and so far as my eyes serve me, I cannot see where it went. That is the situation."

PROBABLE NET INCOME OF NEW COMPANY.

While omitting adequate statements as to assets or property, the applicants have emphasized the earning ability of the road, and their case, from a financial point of view, rests upon their estimate of the net income of the system. Mr. Whitridge testified that in his opinion the net earnings of the Third Avenue system, including the Union, the Dry Dock and 42d Street companies, but excluding the Westchester companies, would not be less than \$1,500,000 after paying interest on \$9,150,000 of underlying bonds. In order, however, to ascertain what sum would be available to pay interest upon other bonds and dividends upon stock, two items must yet be deducted, viz., franchise taxes and depreciation. Mr. Whitridge evidently disregards the former and estimates the latter at \$300,000, leaving the net income available for interest and dividends upon the *new* issues as \$1,200,000. He further claims that this amount will be increased when the Westchester companies have been reorganized.

Although certain criticisms might be made of the way in which the item of \$1,500,000 has been reached, indicating that it is too large for a normal figure, it may be accepted for the moment. The question then arises, How much should be deducted for franchise tax? The 1908 valuation was fixed

at \$18,000,000 approximately for the Third Avenue system, omitting the Westchester companies. The tax amounted to over \$280,000. A fair estimate for a normal year, after making the proper deductions, would probably be from \$175,000 to \$200,000.

The proper allowance for depreciation is a much debated subject. Mr. Whitridge estimated it at \$300,000 for this case, or less than five per cent of gross receipts. But in the transfer case, relative to the exchange of transfers between the 59th Street and the Third Avenue lines, where it was advantageous from the standpoint of the company to show *small* net earnings, Mr. Whitridge testified* that ten per cent would be necessary in addition to proper maintenance charges, which is equivalent to about \$600,000, omitting receipts from the sale of power. In the special franchise tax litigation, the decision of Referee Hall was that an allowance of eight per cent of gross receipts should be made. Upon this basis, the deduction would be about \$500,000. It is difficult to fix positively, without a complete analysis of the amounts spent annually for repairs, maintenance and renewals, what sum should be set aside for depreciation, or deferred maintenance, as it is sometimes called.

If \$600,000 be deducted as a proper allowance for franchise tax and depreciation, there will remain \$900,000 instead of \$1,200,000 from which to pay interest and dividends. That the former figure is not too low, is indicated by the results of operation for the year ending March 31, 1909. Summarizing the quarterly reports filed in this office, it appears that the net income of the four companies being considered, after deducting interest on \$9,150,000 in bonds following the practice in the estimate given above, was about \$1,100,000. As the special franchise tax was not paid, and as the entry for extraordinary repairs was less than \$220,000, it is evident that the clear net income was considerably below \$900,000.

Whether this amount will be larger when the Westchester companies have been put in order, as Mr. Whitridge declares, is very uncertain. At least two companies have been unable to earn sufficient amounts to pay interest, according to the reports of the referees, quoted above. Evidently, very radical measures will need to be taken before the Third Avenue Company, as a stockholder, will receive any dividends. It appears more likely that foreclosure would eliminate the stock entirely.

Relative to the query, whether net income will probably increase, several significant statements were made. It was pointed out that population is increasing in the areas through which several lines run. Upon the other hand, it was asserted by the receiver that if the Commission should con-

* Extract from evidence:

Q. [By Mr. BOWERS, attorney for the Central Trust Co.] The next deduction you make is depreciation, 10 per cent on gross earnings. On what theory was that adopted by you, as a necessary and proper charge to protect the property?
A. That is to be gotten at rather arbitrarily. It is an average estimate of what we suppose to be the life of the various constituent elements of the railroad, the rails, cars, buildings, and so forth.

Q. Did you make any inquiries on which you based that estimate? A. I have had considerable experience with the management of railroads and I have been making inquiries on that subject for the last twenty years and I have made particular inquiries in respect to the life of these street cars and the use of the rails and the life of the rails in this city and it seems to me that 10 per cent is a fair average estimate of what ought to be allowed, especially to make good the depreciation in the property of a hardly used railroad.

Q. That is in addition to proper maintenance charges? A. In addition to proper maintenance charges.

struct a subway in Third Avenue, the "Third Avenue Road might as well shut up shop." In a printed circular the applicants say:

"Twice within a generation the progress of science has necessitated the entire reconstruction of the Third Avenue Railroad—first, by installation of the cable system, and second, by electrification, and that process may possibly hereafter be repeated. Property of this class is also specially sensitive to the exercise of the taxing power, and it may at any time be imperiled by State regulation, and in addition we have to face the popular delusion that while in all other departments of life the purchasing power of a nickel has during the last generation nearly been cut in two, and the price of everything proportionately raised, the people should still have transportation which prevailed in 1870. These are considerations which expose street railway properties to unusual vicissitudes which demand that the fixed charges shall be as light as possible and explain the drastic character of the foregoing plan."

Doubtless this view is too pessimistic, notwithstanding the fact that it will require some time for the roads to recover from past mismanagement; but when determining what amount of securities can safely be issued without inviting disaster, certainties, and not hopes or dreams, should be built upon.

RELATION OF EARNINGS TO PROPOSED CAPITALIZATION.

Suppose we accept temporarily the figure of \$1,200,000 and proceed to inquire whether it will justify the capitalization proposed in the application. As interest upon the first mortgage bonds (5 per cent upon \$5,000,000) has been deducted, there is no question as to them. But it is proposed to issue also \$16,516,800 in refunding bonds, bearing four per cent interest. The annual interest charges would be \$660,672 and well within the probable income. Thus, if only the holders of the first mortgage bonds and the first refunding bonds have the right to institute foreclosure proceedings in case of failure to pay interest, there is not much likelihood, barring gross mismanagement, that another foreclosure and sale would be necessary.

Deducting the interest upon the refunding bonds from \$1,200,000, there would remain \$540,000 with which to pay interest at five per cent upon \$32,000,000 of adjustment bonds and dividends upon the stock. The former alone calls for \$1,600,000. *But as the holders of the adjustment bonds have no right of foreclosure, they would have to be content with a payment of less than 1.7 per cent.* If the net income were \$900,000 instead of \$1,200,000, their return would be less than .8 per cent. In order to obtain the specified rate of five per cent, the net income would need to be \$2,260,000. What probability is there that net income would reach this figure (an increase of over \$1,000,000) within the near future?

Since the estimated income would be insufficient to pay five per cent upon the adjustment bonds, *the holders of the common stock would get nothing, although called upon to pay an assessment of \$25 per share, or \$4,000,000 cash in toto.* The net income would have to exceed \$2,260,000 before they would receive one dollar. It would have to reach \$2,460,000 in order to pay a dividend of one per cent and \$3,460,000 in order to pay six per cent. Suppose the net income were to begin at \$1,200,000 for the first year and to increase \$200,000 per year. Even at that rapid rate, it would be seven

years before the specified five per cent would be paid for a single year, and twelve years before back interest would be paid off. If the net income were \$900,000 the first year and the annual increase \$100,000, these periods would be fifteen years and twenty-nine years respectively. It should be borne in mind that these computations are purely speculative, but it would be most unusual for a company beginning now at \$1,200,000 to increase its net income by \$200,000 per annum, which is equivalent to over sixteen per cent. There is no evidence before the Commission to show that such an annual increase would be probable.

POSITION OF STOCKHOLDERS.

The importance to the stockholder of these facts is two-fold. If the first assumption should prove to be correct he would receive his first small dividend twelve years hence; if the latter, twenty-nine years hence. Further, the control of the corporation would not come into his hands for twelve or twenty-nine years, and not then, if by any chance the company should fail to pay five per cent to the adjustment bondholders in any one of the preceding five years. It should be pointed out that it would be possible for the directors elected by the bondholders so to act that earnings would decline for a year below the required minimum and another period of five years would begin to run. Thus, the stockholders could be kept out of control indefinitely.

Under such conditions, is it likely that the present stockholders would willingly contribute \$4,000,000 in cash under the proposed plan of reorganization if they understood the exact situation? Suppose they refused to do so; then the underwriting syndicate would be obligated to pay the assessment and it would retain \$20,000,000 of stock. If a number paid and a number did not, it would retain \$125 in stock for every \$25 in cash paid over. The present stockholders who refused to pay, for they have the legal right to do so, would be left with stock in the old company which would be valueless, if a foreclosure sale takes place and a new company is formed. These facts completely dispose of the contention of the applicants that the proposed plan merely involves the substitution of securities in a new company for those in the old, for it not only alters the relative position of the bondholders and the stockholders, but also interposes a syndicate with certain privileges and obligations between the present stockholders and the new company. It should also be stated in passing that the Commission does not accept the theory presented by the applicants that the proposal merely involves a substitution of new securities for old, and that, therefore, the Commission should not examine into the propriety of these issues, but issue a certificate of approval as a matter of course. Possibly there might be some ground for argument in the case of a company admittedly solvent, able to pay interest and dividends with promptness and regularity, but never where the evidence is such as that before the Commission in this case.

Assuming that the stockholders do contribute \$4,000,000, what justification is there for the issuance of \$20,000,000 in stock? It is axiomatic that the face value of the stock can not of itself determine earnings. It is also evident that if each one who contributes \$25 in cash is given \$25 in stock, his dividends will be exactly the same, other facts remaining unchanged, as if each

were given \$125 in stock as proposed. But apparently the real reason why the issuance of \$20,000,000 in stock is so strongly urged is the belief that it will be easier to induce the present stockholders to pay an assessment of \$25 per share if \$20,000,000 in securities are offered than if \$4,000,000 are offered. Why? Not because their income will thereby be increased but because there is a conviction that \$20,000,000 in stock approved by this Commission will sell for more in the markets of the world than \$4,000,000 similarly approved. Again one asks, why? Because many believe that the approval of this Commission is a certificate of character; because many believe that when this Commission approves an issue of securities and a mortgage, it is good evidence that there is genuine property back of them and that there is reasonable probability that interest and dividends will be paid. Certainly there is no expectation that this Commission will allow securities to be issued which are not represented by property and upon which there is no probability that there will be a return.

From the facts in this case, the Commission is forced to conclude that a cumulative, five per cent interest charge upon \$32,000,000 of adjustment bonds would not be earned by the new company for some time to come, if ever; that no appreciable dividend upon \$20,000,000 of stock would be earned for a much longer period, and it would be unwise, misleading and improper to issue such securities when there is no expectation that a return would be earned.

HAS THE PUBLIC NO INTEREST IN SECURITIES?

It was argued by Mr. Whitridge, the only witness called to explain and justify the proposed plan of reorganization, that the public has no interest in the amount or character of securities issued. He stated:

“BY CHAIRMAN WILLCOX:

“O. Then you believe it makes no difference how many adjustment bonds or how much stock is issued? A. I do not think it makes a bit of difference so far as the public is concerned.

“Q. The investing public as well? A. The investing public as well.”

By the enactment of the Public Service Commissions Law, notice was served upon all who held Mr. Whitridge's views that the public *was* interested and hereafter would have something to say about the issuance of securities. An end was to be made of the practices which had brought public service corporations into disrepute.

Mr. Whitridge himself replied to questions as follows:

“Q. Could you go ahead with the present securities and obligations of the road and run it? A. No.

“Q. Do you not think the amount of obligations that were imposed upon that road were the prime cause of its downfall? A. Of course.”

In view of the experience through which the public has passed during the past few years, it seems incredible that any one would so attribute the downfall of the Third Avenue Company and still assert that the public has no interest in the capitalization of a successor company. Mr. Whitridge himself admitted that the public might have been concerned in the past, because there was no Public Service Commission, but argued it was different now. Note:

“ BY CHAIRMAN WILLCOX :

“ Q. Then you would see no reason, for instance, if the stockholders were willing to pay \$50 a share, in not issuing \$40,000,000 of stock, if you needed that money to better the road? A. I do not think myself that the public has any interest whatever in the amount of stock that is issued to-day. I do think that under conditions which existed before the establishment of this Commission the situation was different, and it has been proved to be different, because *the endeavor to pay interest on what was fairly called watered stock or stock out of which the value had run, resulted in deterioration of service, inadequacy of service, and in the case of a public service corporation, although I do not go as far as you do in saying that you have that, no matter whatever happens—it is at least a thing which ought to be furnished. And now that we have got this body, which is charged, and which has the power to accomplish that result of providing the public with the adequate facilities, and facilities which were intended to be given by that railroad, I consider that the amount of securities and character of the securities are things with which the public has no concern whatever, unless you are going so far as to say that the public by some provision of the State is to set up what they call in the country ‘Guardeens’ of the people who have got their money.*”

This is a very important point which vitally affects the traveling public, for overcapitalization almost invariably tempts managers to give inferior service at high rates. No matter how excessive the issues of stocks and bonds, the manager feels that he is expected to earn interest and dividends thereon, and every time he is able to increase the rate of profit by a fraction of one per cent he adds to his reputation. Naturally, therefore, he is very strongly tempted to try to squeeze an extra one per cent out of the service or the fares. Whereas, if the capitalization were smaller, it would be easier to earn interest and good dividends without robbing the service. Is it not reasonable to assert that if \$3,500,000 are needed to pay interest and dividends upon \$73,000,000 of securities, the service is apt to be poorer and the rates higher than if the capitalization is \$30,000,000 and only \$1,500,000 are needed? *The Commission is of the opinion that an approval of the application would strongly tend to produce inferior service and higher fares or fewer transfer privileges.*

SECURITIES EXCEED PROPERTY TO BE ACQUIRED.

According to the Stock Corporation Law, a corporation may issue stock or bonds for “money, labor done or property actually received,” and for such purposes only. If property is acquired, the amount of stock issued in payment may not exceed the value of such property. The Public Service Commissions Law provides that a street railroad corporation may issue, under certain conditions, stocks, bonds, notes and other evidences of indebtedness for four general purposes, viz., (1) acquisition of property, (2) construction, completion, extension or improvement of its facilities, (3) improvement or maintenance of its service, (4) discharge or lawful refunding of its obligations. Applying these provisions to the case in hand, it is evident that the proposal of the applicants can become effective only under the theory that the

new bonds and stocks, a small amount excepted, are to be issued for the acquisition of property. If this is true, the next question to arise is whether the property to be acquired by the new company is of sufficient value to justify the plan under discussion. It has been pointed out that practically no information has been presented by the applicants from which to determine the amount and value of the property to be transferred to the new company. It has also been seen that the probable income would be insufficient to pay interest and reasonable dividends upon the face value of the securities to be issued. But there is one more factor to be considered: The market value of the securities to be surrendered (par value, \$53,560,000) might be compared with the face value of the new securities.

On this point Mr. Whitridge testified:

"Q. Upon what do you predicate the value of the stock? A. I do not make any prediction on the value of the stock at all. I might not think it was worth \$1 a bushel, but the holders of it may think it is worth paying \$25 a share for some more of it. Some of them do think so. That is what I mean by the state of mind with which you have got to deal.* * *

"Q. I think you said the other day, speaking of the value of the assets, that its value was what it would bring at a sale. A. I never said anything about the value of the assets. I was asked about the value of the property and I said I supposed the value of the property was what it would fetch in the market place.

"Q. Do you think the value of the stock is fairly represented by the price yesterday, of \$17 a share? A. I think that is too high, that is my present opinion of its value.

"Q. And the bonds appear to be quoted at \$70. Do you think that is fair? A. I have not seen those quotations, but assuming \$70, I should think that was pretty fair, if this present plan goes through. If it does not go through, they would be more valuable.

"Q. Assuming the plan goes through, the market value based on the price to-day would be \$42? A. If it went through, yes.

"Q. And your plan is to issue \$125 face value of stock for \$42 of real value? A. Yes."

Suppose we consider the market value of the stock at \$17 per share and the bonds at \$70. It follows that

\$37,560,000 in bonds are worth	\$26,292,000
16,000,000 in stock are worth	2,720,000
	<hr/>
A total of.....	\$29,012,000
	<hr/>

For these there are to be substituted:

Refunding bonds to the amount of.....	\$7,512,000
Adjustment bonds to the amount of.....	30,048,000
Common stock to the amount of.....	16,000,000
	<hr/>
A total of.....	\$53,560,000
	<hr/>

— an amount almost twice the assumed market value of the securities. *Evidently from this point of view, the property to be acquired does not justify the issuance of the securities proposed.*

LIABILITIES CAPITALIZED.

Of the new issues, \$14,956,000 in securities are to be used in various ways. Nearly a million dollars are to be used to take up outstanding obligations of subsidiary companies; another million to provide extensions; another million for renewal of tracks; another to pay franchise taxes overdue; another for reorganization expenses; a million and a half for subsidiary companies; two millions and a half to the syndicate for services; three millions to pay principal and interest of receiver's certificates; and three millions more for unpaid interest on bonds.

Of a total of fifteen millions, not more than two or three millions should be funded by the issuance of 50-year bonds. At least five millions for renewals, repairs, etc., should have been accumulated during past years and taken out of earnings before dividends were paid. It may now be proper to issue short term securities or notes to provide this sum, but not 50-year bonds. The same is true of the three and one-half millions representing reorganization expenses and syndicate's services. About four and one-half millions, representing taxes and interest, should also have been paid out of income. Taxes represent a first charge and must be paid; but they ought not to be funded.

The capitalization of repairs, renewals, taxes, unpaid interest and reorganization expenses (amounting to about \$13,000,000) by the issuance of 50-year bonds or common stock is very objectionable. It is practically the capitalization of liabilities, not assets; and if it is justifiable to capitalize defaulted interest, taxes, etc., is it not proper to issue bonds for unearned dividends? Upon this point, the evidence of Mr. Whitridge, who appeared in support of the plan, deserves attention:

"Q. The second question is: I do not think it was ever intended by any law-making power to enable a railroad company to issue bonds and stocks upon its liabilities instead of its assets. Do you agree with that proposition? A. I think I can agree with that proposition.

"Q. You agree to that proposition? A. As I understand that question, I will agree to it.

"CHAIRMAN WILLCOX: You had better read it again.

"(Mr. Semple then repeated the question.)

"THE WITNESS: I think that is quite true."

Furthermore, how is the status of a company permanently improved by a capitalization of deficiencies in earnings? If a company can not earn interest and reasonable dividends upon one capitalization, how can it earn them upon a capitalization which has been increased by defaulted interest or deficiencies in dividends? The value of the property has not been increased thereby and the condition of the company is made worse rather than better. The public ought not to be called upon to pay returns upon such items for an indefinite period or for a long term. If a condition arises, as it may and perhaps the Third Avenue Company is in this condition to-day, where money is needed

to pay off such charges and the earnings are *temporarily* deficient, instead of issuing bonds to run fifty years and stock indefinitely, some provision should be made for short term obligations or receiver's certificates as a first charge against earnings and actually to be paid out of earnings before dividends or interest. The interests of the security holders are not injured thereby, but in reality they are likely to be improved if the money is wisely expended.

CAPITALIZATION AND RATES.

There is still another feature which was not emphasized at the hearings, but which is very important nevertheless. The Public Service Commission has many functions besides the approval of bond issues, and one of them is to determine whether a rate is reasonable. Naturally one of the factors considered in every such case is the return to capital and the amount of capital actually invested in the undertaking. If the Commission were to approve the issuance of securities as proposed, and a rate case *were* presented for its determination, the question: How far is the Commission bound to recognize the securities it has authorized and allow a fair return to the holders thereof? would become vital. Suppose the investigation in the rate case should show that the value of actual property, tangible and intangible, were but a fraction of the capitalization authorized by the Commission previously. Suppose it was also plain and indisputable that fares could be lowered and still pay all operating charges, taxes and a generous return upon the actual value of the property, but that such lower fares would not provide a sum sufficient to pay interest on the authorized issue of bonds and a fair return upon the stock. Suppose also that the property had been kept up and that the company had in no way been mismanaged, but had been faultlessly operated. Would the Commission be justified in ordering the reduction of fares? If the Commission had not approved the securities in the first instance, it undoubtedly would be. But even if it would be legal, it can not be equitable or moral for a public body to sanction overcapitalization, either knowingly or because it neglects to ascertain the facts in the case, and later to issue an order the inevitable result of which will be to deprive the holders of the securities of their reasonable interest and dividends. The Public Service Commission can not run with the hare and chase with the hounds. It must be just to all, remembering that when an issue of bonds is approved the public believes that they represent actual property, physical in most part or in whole, and that there is a strong probability that interest will be paid, provided ordinary management and foresight are used. No more desirable result could be attained than that holders of stocks and bonds, the issuance of which has been approved by this Commission, shall come to feel that they represent actual property, dollar for dollar, that no investigation or case however comprehensive will raise any doubt upon this point, and that reasonable rates no matter by whom fixed will allow a fair return upon their stock, barring mismanagement and misjudgment in the company itself. It is imperative, therefore, that the Commission be convinced beyond peradventure that the securities which it approves are based upon property and not merely upon hopes or expectations. A failure to apply the test rigidly will lead to bad results.

Various other features of the application might be considered. For example, no special provision has been made for the tort creditors. The bondholders are to be given new bonds for back interest, etc., but the tort creditors are not similarly taken care of. It is a question whether those who have been injured or who have lost relatives upon whom they were dependent for support ought not to be as well provided for as bond and stockholders. The propriety of issuing securities called bonds, but partaking of the nature of preferred stock, thus misleading investors, is doubtful. The Commission has not considered it necessary to discuss all of these points, for other factors of more importance are decisive.

SUMMARY.

In conclusion, it should be noted that the Third Avenue Company is in the hands of the United States Court. It is the duty of that court to see that the rights of the various security holders are properly protected, and it must be presumed that no action will be taken in the process of reorganization which will deprive any individual or group of individuals of his or their rights. This Commission does not have the duty or the power to compel a reorganization according to some predetermined scheme. It can only pass upon what is presented to it. Upon the case in hand, the Commission has reached the following conclusions:

1. The Public Service Commissions Law applies to plans for the reorganization of corporations, and securities issued in such cases must be approved by the Commission in order to be legal.

2. The function of the Commission in such cases is administrative and not ministerial. Stock and bond issues should be approved only after careful and exhaustive investigation. The Commission should also be convinced that the interests of the public are not menaced and that the welfare of this corporation will be improved thereby.

3. The capitalization of franchises will not be allowed, directly or indirectly, except so far as permitted by statute.

4. The applicants do not have a vested right to capitalize franchises or to reorganize irrespective of the provisions of the Public Service Commissions Law.

5. The applicants have failed to prove that there are assets or property of sufficient value to justify a capitalization of \$73,000,000. In the absence of proof, the Commission will not approve, for no reorganization can be sound or permanent unless capitalization has some relation to value.

6. There are strong indications that the present company is overcapitalized and that the outstanding stock and bonds — \$58,560,000 — are not represented by actual property.

7. The net earnings will probably be less than the estimate given by the receiver, certain items having been omitted.

8. But even accepting his estimate, there is no evidence whatever to show that the new company would earn a sufficient net income to pay interest upon the adjustment bonds, par value \$32,000,000, after paying operating expenses, taxes and interest on prior liens.

9. Upon the applicant's theory, there is no evidence to indicate that any dividend would be paid upon the common stock, par value \$20,000,000.

10. The issuance of securities with so great a probability that adequate interest and dividends will not be earned thereon is without justification, is dangerous financiering, and injurious to the public. Apparently it has been forgotten that the issuance of securities does not make value.

11. Such extreme overcapitalization would lead, as it has in the past, to inferior service and unwarranted exactions. The people of New York have too vivid evidence upon this point to forget its importance.

12. The control of the corporation would pass from the stockholders to the bondholders with little probability of its return for many years, if ever. This is true notwithstanding the fact that the stockholders are to be called upon for \$4,000,000.

13. The value of the property to be acquired, as indicated by market value of the securities, is very much less than the amount of the securities proposed to be issued. Market value cannot be used, therefore, to justify the proposed issues.

14. The reorganization plan involves the capitalization of taxes, unpaid interest, repairs, renewals and other improper capital charges, which is unjustifiable and inexpedient.

The Commission concludes that the application before it should not be granted, as the facts before the Commission do not warrant the conclusion that the capital is reasonably required by the new corporation.

Thereupon, the Commission adopted the following resolution:

In the Matter
of the
Application of JAMES N. WALLACE, ADRIAN
ISELIN, EDMUND D. RANDOLPH, MORTI-
MER L. SCHIFF, JAMES TIMPSON and
HARRY BRONNER, Composing the Bondhold-
ers' Committee of Bonds Issued under the First
Consolidated Mortgage of the Third Avenue
Railroad Company, Dated May 15, 1900, for
Approval of the issue of \$16,516,800 of Refund-
ing Mortgage Bonds, \$32,000,000 of Adjustment
Mortgage, 5 per cent Cumulative Bonds and
\$20,000,000 of Capital Stock by a New Company
Contemplated in the Plan of Reorganization of
the Property of Said Third Avenue Railroad
Company.

Case No. 1126
September 29, 1909

Whereas, James N. Wallace, Adrian Iselin, Edmund D. Randolph, Mortimer L. Schiff, James Timpson and Harry Bronner, composing the Bondholders' Committee of bonds issued under the first consolidated mortgage of the Third Avenue Railroad Company, dated May 15, 1900, made application to the Public Service Commission for the First District by petition verified June 23, 1909, praying permission to issue, when the new Third Avenue Railroad Company shall have been organized, securities under the proposed plan of reorganization, as follows:

1. \$16,516,800 of refunding mortgage bonds.
2. \$32,000,000 of adjustment mortgage, 5% cumulative bonds.
3. \$20,000,000 of stock, and

Whereas, The said Public Service Commission, by hearing order made June 25, 1909, did direct said petition to be heard on June 30, 1909, at 11:00 o'clock in the forenoon, and did direct the petitioner to publish notice of the said application and of the time and place of said hearing, and

Whereas, The matter has been duly heard and considered, it is

Resolved, That the said application of James N. Wallace, Adrian Iselin, Edmund D. Randolph, Mortimer L. Schiff, James Timpson and Harry Bronner, composing the Bondholders' Committee of bonds issued under the first consolidated mortgage of the Third Avenue Railroad Company, dated May 15, 1900, be and the same hereby is denied.

Applications for Certificates of Convenience and a Necessity.

New York, Westchester and Boston Railway Company.— Application for a certificate of convenience and a necessity and for permission and approval of the construction of its railroad and exercise of its franchise.

Case No. 811

Certificate of convenience and a necessity

Order granting approval

Order amending order granting approval

The company, on October 27, 1908, made application to the Commission for a certificate of convenience and a necessity, under section 59 of the Railroad Law, and for permission and approval of the construction of its railroad and the exercise of its franchise under section 53 of the Public Service Commissions Law. Hearings were held during 1908 and on January 6, 1909.

The Commission issued the following orders:

In the Matter
of the
Application of the NEW YORK, WESTCHES-
TER AND BOSTON RAILWAY COMPANY
for a certificate of convenience and a necessity
under section 59 of the Railroad Law.

Case No. 811
Certificate of Convenience
and a Necessity
January 6, 1909

CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

The New York, Westchester and Boston Railway Company having duly made application to the Public Service Commission for the First District by its petition verified October 27, 1908, and its supplementary petition verified November 9, 1908, for a certificate that it has complied with the conditions provided for in section 59 of the Railroad Law, and that public convenience and a necessity require the construction of the railroad proposed in its articles of association, and its said application having been duly heard at a hearing held on November 9, and November 16, 1908, in pursuance of

due notice thereof, George S. Graham, Esq., and Allen Wardwell, Esq., appearing for the applicant, and Walter C. Booth, Esq., Robert E. Reed and Stephen H. Keating, Esq., appearing also in favor of the said application, and James M. Gifford, Esq., and Joseph G. Robin appearing in opposition thereto for the Fidelity Development Company, and Charles Gibson Bennett, Esq., appearing in opposition for the Huntington Estate, and proof having been submitted, and due consideration having been had, it is hereby

Ordered: That said application be and the same hereby is granted, and the Public Service Commission for the First District hereby certifies under the provisions of section 59 of the Railroad Law that the directors of the New York, Westchester and Boston Railway Company have caused a copy of the Articles of Association of said company to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and have filed satisfactory proof thereof with this Commission, and have made this application within six months after the completion of said publication, and that the conditions provided for in said section 59 of the Railroad Law have been complied with by the said New York, Westchester and Boston Railway Company, and that public convenience and a necessity require the construction of the railroad of the said New York, Westchester and Boston Railway Company, as proposed in the Articles of Association of the said company.

Granted January 6, 1909.

PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

By

Secretary.

In the Matter
of the
Application of the NEW YORK, WESTCHES-
TER AND BOSTON RAILWAY COMPANY
for the permission and approval of the Com-
mission to the Construction of its railroad and
the exercise of its franchise or right to
operate the same.

Under section 53 of the Public Service Commis-
sions Law.

Case No. 811
Order Granting Approval
January 6, 1909.

The New York, Westchester and Boston Railway Company having filed with the Public Service Commission for the First District its application by petition verified October 27, 1908, and a supplementary petition verified November 9, 1908, praying the permission and approval of the Commission to the construction of its said railroad and the exercise by it of its right or franchise to operate the same under the provisions of section 53 of the Public Service Commissions Law, and the said application having come on for hearing pursuant to an order for hearing, on November 9 and November 16, 1908, Commissioner Eustis presiding, George S. Graham, Esq., and Allen Wardwell appearing for the said applicant, and Walter C. Booth, Robert E. Reed and Stephen H. Keating, Esq., appearing also in support of said application, and James M. Gifford, Esq., appearing in opposition for the Fidelity Develop-

ment Company, and Charles Gibson Bennett appearing in opposition for the Huntington Estate.

Now, the Commission after such hearing having determined that the construction of such railroad and the exercise by the said company of the franchise or right of operation thereof is necessary and convenient for the public service, it is hereby

Ordered: That the permission and approval of the Public Service Commission for the First District be and the same hereby is given to the construction by the said New York, Westchester and Boston Railway Company of its said railroad and to the exercise by it of its franchise or right to operate the same upon the route set forth in said petition and application, subject, however, to the conditions hereinafter set forth, the terms of which are to be accepted, kept and performed by the said New York, Westchester and Boston Railway Company, to wit:

1. Prior to the construction hereafter of any portion of said railroad or appurtenances thereto, or the installation of the power equipment thereof for operation of the same or any alteration or change in said construction or said power equipment, the said New York, Westchester and Boston Railway Company shall file with this Commission plans, maps and specifications showing in detail the nature of all such construction or installation for electrical or other operation of said road, for the approval of said Commission, and no construction or installation upon or operation of any part of said road shall be begun until the plans, maps and specifications aforesaid as to the portion to be constructed or installed shall have been filed with and shall have received the written approval of the said Commission.

2. The route covered by the franchise grant from the City of New York to the said New York, Westchester and Boston Railway Company from Harlem River to the City Line, designated in said franchise grant as the Main Line, shall be completed with four tracks and in full operation prior to the second day of August, 1913. And it is

Further ordered: That this order shall take effect on the 6th day of January, 1909, and shall continue in force until otherwise ordered by the Commission.

Further ordered: That within five days after the service upon the said New York, Westchester and Boston Railway Company of a certified copy of this order said company notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

The company, on January 12, 1909, petitioned the Commission for a rehearing as to the matters under the order granting approval. The Commission directed that a rehearing be had on January 14, 1909, and extended the time within which the company should notify the Commission whether the terms of said order were accepted and would be obeyed to and including January 19th. A hearing was held on January 14th, after which the Commission issued the following order:

CASE NO. 811, ORDER AMENDING ORDER GRANTING APPROVAL
(January 15, 1909.)

An order having been made by the Commission January 6, 1909, granting its permission and approval in the above entitled matter, and the applicant, the New York, Westchester and Boston Railway Company having, by petition, verified January 12, 1909, applied for an extension of time within which to accept the terms of said order, for a rehearing and for six amendments to the order, to wit, that there be inserted in said order the words "subsequent," "within the First District," "future," "future" "as adopted by the Board of Estimate and Apportionment of the City of New York, November 20, 1908," and that the words "have been" be substituted for the word "are,"—all as indicated in said petition of January 12, 1909; and an order having been made January 12, 1909, extending to January 19, 1909, the time within which to notify the Commission of the acceptance of the order of January 6, 1909, and granting a rehearing, and said rehearing having been held January 14, 1909, before Commissioners John E. Eustis and William McCarroll; Albert H. Walker, Esq., having appeared for the Public Service Commission for the First District, and Allen Wardwell, Esq., having appeared for the applicant company, and arguments having been heard; it is

Ordered: That the first four proposed amendments be allowed, that in the fifth proposed amendment the word "described" be substituted for the word "Adopted" and the said fifth amendment as thus modified be allowed; and that the sixth proposed amendment be disallowed; and it is

Further ordered: That the said order of January 6, 1909, be thus amended *nunc pro tunc*, so that the said order as amended shall read as follows:

CASE NO. 811. ORDER GRANTING APPROVAL.

The New York, Westchester and Boston Railway Company having filed with the Public Service Commission for the First District, its application by petition verified October 27, 1908, and a supplementary petition verified November 9, 1908, praying the permission and approval of the Commission to the construction of its said railroad and the exercise by it of its right or franchise to operate the same, under the provisions of section 53 of the Public Service Commissions Law, and the said application having come on for hearing, pursuant to an order for hearing, on November 9 and November 16, 1908, Commissioner Eustis presiding, George S. Graham, Esq., and Allen Wardwell appearing for the said applicant, and Walter C. Booth, Robert E. Reed and Stephen H. Keating, Esq., appearing also in support of said application, and James M. Gifford, Esq., appearing in opposition for the Fidelity Development Company, and Charles Gibson Bennett appearing in opposition for the Huntington Estate.

Now, the Commission after such hearing having determined that the construction of such railroad and the exercise by the said Company of the franchise or right of operation thereof is necessary and convenient for the public service, it is hereby

Ordered: That the permission and approval of the Public Service Commission for the First District be and the same hereby is given to the construction by the said New York, Westchester and Boston Railway Company of its said railroad and to the exercise by it of its franchise or right to

operate the same upon the route set forth in said petition and application, subject, however, to the conditions subsequent hereinafter set forth, the terms of which are to be accepted, kept and performed by the said New York, Westchester and Boston Railway Company, to wit:

1. Prior to the construction hereafter of any portion of said railroad or appurtenances thereto within the First District, or the installation of the power and equipment thereof for operation of the same, or any alteration or change in said construction or said power equipment, the said New York, Westchester and Boston Railway Company shall file with this Commission plans, maps and specifications showing in detail the nature of all such future construction or installation for electrical or other operation of said road, for the approval of said Commission, and no future construction or installation upon or operation of any part of said road shall be begun until the plans, maps or specifications aforesaid as to the portion to be constructed or installed shall have been filed with and shall have received the written approval of the said Commission.

2. The route covered by the franchise grant from the City of New York to the said New York, Westchester and Boston Railway Company from Harlem River to the City Line, designated in said franchise grant as the Main Line, as described by the Board of Estimate and Apportionment of the City of New York, November 20, 1908, shall be completed with four tracks and in full operation prior to the second day of August, 1913. And it is

Further ordered: That this order shall take effect on the 6th day of January, 1909, and shall continue in force until otherwise ordered by the Commission.

Further ordered: That within five days after the service upon the said New York, Westchester and Boston Railway Company of a certified copy of this order said company notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

Thereafter, the company submitted plans in compliance with the terms of the order issued January 15, 1909, which were examined and approved by the Chief Engineer. The Commission, on April 16, 1909, thereupon adopted the following resolution:

Resolved: That the general plans submitted by the New York, Westchester and Boston Railway Company, in compliance with the order issued by the Commission under date of January 15th, Case No. 811, under section 53 of the Public Service Commissions Act, be and they hereby are approved.

South Flatbush Railroad Company.—Application for a certificate of convenience and a necessity.

Case No. 1113

Hearing Order

Discontinuance Order

The company, on June 7, 1909, made application to the Commission, under section 59 of the Railroad Law, for a certificate

of convenience and a necessity. The petition alleged that the Board of Directors of the company had caused a copy of the articles of association to be published in a newspaper published in Kings County, the county in which the proposed railroad was to be located, once a week for three successive weeks. The proposed railroad was to be approximately three miles in length and located in the Borough of Brooklyn, City of New York, beginning at a point where the Brighton Beach line of the Brooklyn Union Elevated Railroad Company intersects Avenue Q, and running thence along Avenue Q, Gerritson Avenue, Avenue U, Flatbush Avenue and Avenue Q to the intersection of Avenue Q and Gerritson Avenue. The Commission, on June 15th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on June 29th, and that the company publish due notice thereof. A hearing was held on June 29th. The company withdrew its application, whereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of SOUTH FLATBUSH RAILROAD COMPANY for a Certificate of Convenience and a Necessity under section 59 of the Railroad Law.</p>	<p>Case No. 1113 Discontinuance Order July 2, 1909</p>
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Ordered: That the proceedings herein be, and the same hereby are, discontinued.

Third Avenue Bridge Company.— Application for a certificate of convenience and a necessity.

Case No. 1136
Hearing Order
Opinion of the Commission
Resolution denying application

The company, on July 14, 1909, made application to the Commission, under section 59 of the Railroad Law, for a certificate of convenience and a necessity. The Commission, on August 3d, directed (see blank form of hearing order, page 9) that a hear-

ing be had on said petition on August 13th, and that the company publish due notice of said hearing. Hearings were held August 13th, 27th and September 10, 1909.

OPINION OF THE COMMISSION.

(Adopted September 17, 1909.)

COMMISSIONER MAITRE:—

This is an application made by the Third Avenue Bridge Company, a railroad corporation incorporated under the laws of the State of New York. According to the articles of incorporation filed in the office of the Secretary of State, May 29, 1909, the life of the corporation is to continue for 1,000 years; a street surface railroad is to be constructed and operated by electric or other power (other than steam or horse power); the line is to be about 9,766 feet in length, with its Manhattan terminus at the intersection of Fifty-seventh Street and Third Avenue and its Queens terminus to be at the terminus of the Queensboro Bridge at Jackson Avenue; and the amount of its capital stock is to be \$20,000, which was subscribed for by Alfred D. Sage to the extent of 172 shares and by fourteen others to the extent of two shares each. It has been informally stated that all of the stockholders of the new company are employees of Mr. Whitridge, receiver for the Third Avenue Railroad Company. The President of the company testified that ten per cent of the stock has been paid in, the money being advanced by Mr. Whitridge as receiver of the Third Avenue Company.

The original articles of incorporation gave the exact location of the line as follows:

“Commencing at the intersection of Third Avenue and Fifty-seventh Street, running thence Easterly with double tracks in or upon Fifty-seventh Street to Second Avenue, thence Northerly in or upon Second Avenue with double tracks to Sixtieth Street, thence upon and across the Queensboro Bridge, and abutments to Jackson Avenue in Long Island City, New York, all in The City of New York, Boroughs of Manhattan and Queens, Counties of New York and Queens in the State of New York.”

The application under consideration was made to the Commission under date of July 14th. It requested the Commission to “certify that it may exercise its franchises and rights under section 53 of the Public Service Commissions Law, and that its articles of incorporation have been published as required by section 59 of the Railroad Law, and also that public convenience and a necessity require the construction of the railroad as proposed in said articles of association.”

At the time of the application the company had received no franchise from the local authorities, and at the present moment it does not possess one. Consequently it is impossible for the Commission to give its approval under section 53 of the Public Service Commissions Law. Concerning the second item in the petition, proof was submitted at the hearings ordered by the Commission, and apparently the articles of incorporation have been published as required by section 59 of the Railroad Law. The third item, relating to a certificate of public convenience and a necessity, requires extended consideration.

After its incorporation, the Third Avenue Bridge Company apparently came to the conclusion that it would be impracticable to construct a railroad as laid out, there being no provision for any track in Sixtieth Street or in Fifty-ninth Street. At the first hearing, therefore, the company submitted a document certifying that the directors of the company had adopted a resolution upon July 14, 1909 — the date of the application to the Commission — changing the route and describing it in the following words:

“Commencing at the intersection of Third Avenue and Fifty-seventh Street, and running thence Easterly with double tracks in or upon Fifty-seventh Street to Second Avenue; thence Northerly with double tracks in or upon Second Avenue to Sixtieth Street; from the intersection of Fifty-ninth Street and Second Avenue and connecting with the tracks above mentioned on Second Avenue Easterly with a single track, and in or upon Fifty-ninth Street, for a distance of eighty-five feet, or thereabouts, to the Queensboro Bridge, and thence upon and across the Queensboro Bridge and abutments to Jackson Avenue in Long Island City, New York. And connecting with double tracks on Second Avenue at or near Sixtieth Street, thence Easterly with a single track and in or upon Sixtieth Street for a distance of three hundred and twelve feet, or thereabouts, to the Queensboro Bridge, and thence upon and across the Queensboro Bridge and abutments to Jackson Avenue, Long Island City, New York.”

In substance, this alternative provides for the construction of a track in Fifty-ninth Street for a distance of 85 feet, or thereabouts, with the necessary special work, and also of a track in Sixtieth Street for a distance of 312 feet, or thereabouts, with a slight extension of the double track in Second Avenue and certain additional special work. Thus it is now proposed to place tracks in two streets not included in the original plan.

The attorney for the company requested, at the first hearing, that a certificate of public convenience and a necessity be issued for the route as amended, but admitted that the change had not been advertised and that the advertisements ordered by the Commission prior to the hearing related to the route described in the application and in the articles of incorporation, but not in the resolution of July 14, 1909, amending the route. It seems strange that the original application did not give the route desired, as it bears the same date as the amending resolution. Under the circumstances, the Commission considers that a certificate should not be issued without an advertisement of the amended route; but as both routes have many objections in common, and as the evidence does not show that either route would be a convenience and a necessity to the public, the Commission has considered them upon their merits and bases its refusal to grant the certificate not only upon technical grounds but upon the facts as well.

Each route involves the construction of a double-track line in Fifty-seventh Street, from Third Avenue to Second Avenue, and also two tracks in Second Avenue from Fifty-seventh to Sixtieth Streets, all to be of the same type as the Third Avenue system at present — a conduit, under-trolley system.

A number of witnesses — residents of Queens — were called by the applicant to show the need of the proposed street surface railroad across the Queensboro Bridge. It is generally admitted that provision should be made in some manner for additional transportation facilities to enable the residents of Manhattan to be carried as far as possible for one fare into the Borough of Queens and to enable the residents of Queens to be carried as far

as possible into the Borough of Manhattan for one fare. The evidence clearly shows, however, that the desire of the residents of Queens who were called as witnesses was not merely for *another* line across the bridge, to use which they would be required to pay an additional five-cent fare at the plaza in Queens or at the terminus of the bridge in Manhattan or at both places. Indeed, it was stated by certain witnesses that they would consider the proposed application objectionable if it were likely that a transfer arrangement between the Bridge Company and the Third Avenue system would not be realized, or, if put into effect for a short time, would be broken subsequently. In other words, the witnesses from the Borough of Queens called by the company expressed a desire for additional transportation facilities, but not necessarily the one proposed by the applicant, and certain of them stated that they would consider an alternative route, which will be referred to later, as preferable to the one outlined by the applicant. *The question before the Commission is not, therefore, whether the Borough of Queens needs additional transportation facilities, but whether the proposed application should be approved and whether a certificate should be issued upon the grounds of public convenience and necessity in view of the facts and the evidence presented at the hearing by the applicant.*

A consideration of the evidence from this point of view reveals no guarantee whatever that transfers would be exchanged permanently or for a time between the Third Avenue Railroad Company and the Third Avenue Bridge Company if the latter constructed the proposed line. The President of the Bridge Company testified that through cars *could* be run over the lines of the Third Avenue Company and only a single fare charged, but when pressed for assurance that this would be done, he admitted that no agreement had been made and that he could offer no assurance that it would be, beyond the statement that he had no doubt about it. There being no agreement, such assurance amounts to nothing; and if the certificate were granted, there would be nothing to guarantee the exchange of transfers or the through routing of cars. Further, any agreement that should be made subsequently could be abrogated at any time by mutual consent. The same is also true of the relation between the Third Avenue Bridge Company and every other line in Manhattan.

This point is very important, for the proposed route connects with the Third Avenue line at a point about one-third of the distance between the Post-office and Fort George, and if passengers were carried from the Queensboro plaza of the bridge to the extreme southerly end of the system, the distance would be about one-half the length of the present Third Avenue route. Furthermore, without a transfer to some of the other lines now in the hands of Mr. Whitridge, as receiver, but not a part of the Third Avenue system, the passenger from Queens would not be able to reach for one fare many of the centers in Manhattan which are a short distance from the Manhattan terminus of the bridge.

It was suggested by the applicant that the franchise could provide for through routing, transfers, fares, etc. But there being no franchise before the Commission and none having as yet been granted by the local authorities, there is no assurance that it will contain adequate guarantees or requirements when granted. If the application had been made after the franchise was granted, the Commission would have definite information.

There is also the question, whether any assurance given by Mr. Whitridge or any contract made by him as receiver of the Third Avenue Company with the Bridge Company would be binding upon the Third Avenue Company when it resumes operation or upon its successor to whom its franchises, rights and property are transferred. The answer would probably be in the negative even if Mr. Whitridge were admittedly acting for the Third Avenue Railroad Company as receiver; but in an action brought in the Supreme Court of the State of New York, he denied that he was receiver of the Third Avenue Railroad Company or that he did any act whatever as such alleged receiver of the Third Avenue Railroad Company, taking the stand that he was "receiver of the *property* of the Third Avenue Railroad Company," and attempting to draw the line between a person acting as receiver for a company and a person acting as receiver for the property of a company. If Mr. Whitridge is receiver for the property only, how can his acts be binding upon the company?

It is also the intention of the company to use the tracks of the Second Avenue Railroad if they can make an arrangement with that company. But if the application were approved and the necessary authority were secured from other public bodies, four tracks in Second avenue from Fifty-seventh to Sixtieth streets, part of the distance being directly in front of the present bridge plaza, might be constructed and operated. This feature is considered very objectionable, for four tracks in Second avenue would inconvenience the public, would obstruct the vehicular traffic and would be a source of constant danger.

Upon Fifty-seventh street the line would run directly in front of a public school. This is considered objectionable to a degree, but it should not be inferred that the Commission considers this so important as to justify a refusal to permit the construction of every line in Fifty-seventh street. As it is possible to serve the public equally well by using another street, it is a factor deserving of consideration, for it cannot be denied that the operation of a double-track line in front of a public school is somewhat dangerous and ought to be avoided, if possible.

Although the Commission considers that it is not incumbent upon it to point out a better route when it sees important objections to the one proposed (the statutory duty of the Commission being fulfilled when it considers an application upon the evidence submitted), considerable attention has been given to the possibility of an alternative route which would not present the objections urged against the present application and which at the same time would give additional transportation facilities over the Queensboro Bridge. The Commission is anxious to do all within its power to improve transit facilities and protect the interests of the public. With this idea in mind the applicant was asked to consider a route extending westerly from the north side of the bridge through Sixtieth street to Third avenue, with a north and south connection at this point, thence down Third avenue, thence easterly through Fifty-ninth street to a connection with the south side of the bridge, from this point following the route outlined by the applicant. Suitable switches could be provided so that cars could be operated over this line, if necessary, as a separate loop, or could be run through in connection with the Third Avenue system. If such a line were operated independently, it would involve the joint use of one track in Fifty-ninth street between Third avenue and a point a few feet east of Second avenue (about 750 feet), belonging to the Central

Park, North & East River Company, and also one track in Third avenue (about 250 feet), belonging to the Third Avenue Company. It would eliminate, however, the joint use of tracks in Second avenue or the construction of additional tracks in that street. It would require the construction of less special work and less track mileage in the streets, would decrease the car mileage necessary to transport the same number of passengers, and would not interfere with additional surface lines in Manhattan; for if at some future time it were considered necessary to have a crosstown line in Fifty-seventh street, the existence of tracks between Third avenue and Second avenue upon that street would render necessary an arrangement of some sort between the Third Avenue Bridge Company and the new line. The former company, through its connection with the bridge, would be in a position where it might obstruct and interfere with the proper development of transit lines. Furthermore, any line coming across the Queensboro Bridge and wishing to cross town in Fifty-seventh street would almost necessarily use the tracks of the Second Avenue Company between Fifty-ninth and Fifty-seventh streets. If these were also used by the Third Avenue Bridge Company, there would be an additional tendency towards congestion, which is avoidable by the adoption of another route. All of these facts mean that the route proposed by the applicant would not only be more expensive to construct, but more expensive to operate, and as the traveling public must pay operating charges and a fair return from capital, the construction of the line proposed by the applicant would, if other things were equal, make necessary higher fares, or poorer service, or a lower return to investors.

When the block bounded by Fifty-ninth and Sixtieth streets and Second and Third avenues, which has been placed upon the city map thus indicating the intention of the Board of Estimate and Apportionment to authorize its condemnation and purchase, is actually taken for a bridge plaza, the alternative route will be much preferable to the one desired by the applicant. Further, the proposed connection at Fifty-seventh street would bring the passengers from Queens to a station upon the Second Avenue elevated road; whereas the alternative plan would land them at the Fifty-ninth street station of the Third Avenue elevated road. This difference is important, for the Third Avenue connection is much more convenient to the public.

The objections made to this alternative route by the attorney for the Third Avenue Bridge Company are that it might not be possible to secure the consents of property owners in Sixtieth street, and that it might not be possible to agree with the company owning the tracks in Fifty-ninth street for the joint use of one for a short distance. Neither one is insuperable, and as a matter of fact the company has not yet been able to secure consents from property holders for the route which it proposes in its application. But if the necessary consents were not obtained, the company could go to the court for approval in lieu of the consent by property owners, and it may have to adopt this course in connection with its proposed line. Further, in view of the fact that no attempt has been made to arrange with the Fifty-ninth Street company for the joint use of one of its tracks, and in view of the fact that if an arrangement could not be made, the company operating over the bridge could compel the Fifty-ninth Street company to allow joint use under section 102 of the Railroad Law, the objections raised seem more imaginary than real.

The attorney representing the applicant also stated that one reason why he had advised that no attempt be made to agree with the Fifty-ninth Street company was that such a contract would involve an exchange of transfers with the Fifty-ninth Street company. Such a result would doubtless be very satisfactory to the public and perhaps remunerative to the company; but as a matter of fact, the same objection might be raised to the Second Avenue route. The two are upon an equality from this point of view. If the track used jointly did not exceed 1,000 feet, it would not be necessary to exchange transfer privileges in either case, if such rights were obtained through the courts.

The question has also been raised whether the alternative plan suggested would interfere with vehicular and street car traffic more than the routes suggested by the applicant. It should be noted that cars running west in Sixtieth street would be going *with* vehicular traffic, but if they ran down Second avenue, they would be crossing both streams—those going to and coming from the bridge. An investigation has also been made into the headways upon the Third Avenue, the Second Avenue and the Fifty-ninth Street lines; the number of cars passing the point of observation being:

	4:30 to 6:30 P. M.	7 to 9 A. M.
Third Avenue, northbound.....	87	..
Second Avenue, northbound.....	87	..
Third Avenue, southbound.....	..	73
Second Avenue, southbound.....	..	90
Fifty-ninth Street, eastbound.....	60	46
Fifty-ninth Street, westbound.....	59	46

Only the rush hours, morning and evening, were taken, for these would be the limiting hours if there were any during the day. From this table it is evident that, as the number of cars operated upon Fifty-ninth street is less than upon Third or Second avenue, the use of Fifty-ninth street for a bridge connection would be least objectionable. Second avenue has no advantages over Third avenue, and if the required number can be operated on Second and Third avenues, they can more easily be operated upon Third avenue and Fifty-ninth street. Further, the extent of single track to be used jointly with the Second Avenue Company, according to the plans of the applicant, is from 1,200 to 1,600 feet. The alternative plan herein suggested calls for a joint use of not more than 750 feet with the Fifty-ninth Street Company.

Assuming that the route were changed or that the route as proposed were satisfactory in certain respects, the question would still remain whether an independent dummy corporation should be given a certificate. The plan which naturally suggests itself is the construction of the line as an extension of the Third Avenue system by the Third Avenue Company. This matter has been considered formally and informally with the attorney for the Bridge Company, who is also attorney for Mr. Whitridge. He states that about the only objection to the plan is that the Third Avenue Company would have to pay more to the City than the Bridge Company. An attempt has been made to secure the figures upon which this conclusion was based, but they were not obtained beyond the statement that the Third Avenue Company would have to pay, if it operated the line as an extension, from \$8,000 to \$14,000 in the form of a gross earnings tax. No estimate was submitted as to payments which the

Third Avenue Bridge Company would have to make, provided the line were operated by an independent company, although a request was made for them. It was stated, however, that the difference might reach \$5,000. Apparently, these figures were based upon a passenger traffic of from 2,000,000 to 2,500,000 persons annually. The difference would decrease if the traffic should exceed this estimate, and might, under actual conditions, wholly disappear.

Upon the other hand, if the line were authorized as an extension to the Third Avenue system, the residents of the Borough of Queens would be absolutely certain of a five-cent fare as long as the line is operated and as long as the statutes remain as they are now. The maintenance of a five-cent fare would not then depend upon an agreement not yet in existence nor upon the fulfillment of some such contract after it were made. Even the appointment of a receiver could not of itself result in an increase in fares.

Under different circumstances, these factors might not be so important as they are in this case. If there were many routes over which lines could be operated into Queens, if the approval of the suggested route would in no way interfere with other connecting lines, a different conclusion might be reached. But the streets approaching the Queensboro Bridge are limited in number. Every street and every plaza must be utilized in the most effective and economical way or congestion will be so great as to interfere with public convenience and the greatest utilization of a bridge costing many millions. The structure itself is arranged for only three sets of tracks — one designed to be used for elevated cars, one for overhead trolley lines, and one for a rapid transit subway connection. The applicant desires to use the set planned for rapid transit. But it is clear that slowly moving lines must not be allowed to interfere with rapid transit lines, and that the lines which will offer greatest utility and convenience to the public must be preferred to those offering little.

Since the hearings were closed, the statement has been made publicly that a local service over the Queensboro Bridge at a reduced fare will be operated by the City of New York, and that it will be initiated at an early date.

After a full consideration of all the facts, the Commission is of the opinion that a certificate of public convenience and a necessity should not be issued.

Thereupon the Commission adopted the following resolution:

<p>In the Matter of the Application of the THIRD AVENUE BRIDGE COMPANY for a certificate of public convenience and a necessity under section 59 of the Railroad Law.</p>	<p>Case No. 1136 September 24, 1909</p>
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Whereas, This Commission, after a hearing, is of the opinion that public convenience and a necessity do not require the construction of the street surface railroad as proposed in the Articles of Association of Third Avenue Bridge Company,

Resolved, That the application of the Third Avenue Bridge Company for a certificate of public convenience and a necessity for the construction of said railroad over the streets, avenues and highways set forth in its petition verified July 14, 1909, as follows:

"Commencing at the intersection of Third Avenue and 57th Street, running thence easterly with double tracks in or upon 57th Street to Second Avenue, thence northerly in or upon Second Avenue with double tracks to 60th Street, thence upon and across the Queensboro Bridge, and abutments to Jackson Avenue in Long Island City, New York, all in the City of New York, Boroughs of Manhattan and Queens, Counties of New York and Queens, in the State of New York,"

be and hereby is denied. And it is further

Resolved, That the application of the Third Avenue Bridge Company for a certificate of public convenience and a necessity for the construction of said railroad over the following streets, avenues and highways, as set forth in the certificate of the Third Avenue Bridge Company, for a change of part of the route of its road, filed with the Secretary of the Public Service Commission for the First District on September 8, 1909, as follows:

"Commencing at the intersection of Third Avenue and Fifty-seventh Street, and running thence Easterly with double tracks in or upon Fifty-seventh Street to Second Avenue; thence Northerly with double tracks in or upon Second Avenue to Sixtieth Street; from the intersection of Fifty-ninth Street and Second Avenue and connecting with the tracks above mentioned on Second Avenue Easterly with a single track, and in or upon Fifty-ninth Street, for a distance of eighty-five feet, or thereabouts, to the Queensboro Bridge, and thence upon and across the Queensboro Bridge and abutments to Jackson Avenue in Long Island City, New York. And connecting with double tracks on Second Avenue at or near Sixtieth Street, thence Easterly with a single track and in or upon Sixtieth Street for a distance of three hundred and twelve feet, or thereabouts, to the Queensboro Bridge, and thence upon and across the Queensboro Bridge and abutments to Jackson Avenue, Long Island City, New York,"

be and the same hereby is denied.

Applications for Approval of Changes of Motive Power.

Brooklyn Heights Railroad Company.—Application for approval of change of motive power.

Case No. 1117

Hearing Order

Opinion of the Commission

Final Order

Resolution approving plans

The company, on June 18, 1909, petitioned the Commission, under section 100 of the Railroad Law, praying its consent and approval of a change of motive power from cable to overhead electric current on its Montague Street line between Court Street and Wall Street Ferry. The Commission, on June 25, 1909, directed (see blank form of hearing order, page 9) that a hearing

be had on said petition July 14th, and that the company publish due notice thereof. A hearing was held on July 14, 1909.

OPINION OF THE COMMISSION.

(Adopted August 3, 1909.)

COMMISSIONER MCCABROLL:—

An application dated June 18, 1909, was made by the Brooklyn Heights Railroad Company under section 100 of the Railroad Law, for approval of change of motive power from the cable at present in use to overhead electric current. A hearing order was made June 25, 1909, returnable July 14, 1909, and the company was directed to post a certain notice of the hearing in every car operated on the Montague Street line from July 1 to July 14, and to publish a notice at least two days in each week for two weeks prior to the hearing. At the hearing the company appeared, but there were no other appearances. Proof of the publication and posting was duly made and the hearing closed. Thereafter, the Brooklyn Trust Company and certain other property owners, by their attorneys, Messrs. Dykman, Oeland and Kuhn, asked for a hearing in order that they might state their objections. The presiding Commissioner advised them that the taking of testimony was closed but that he would be glad to meet them and talk the matter over. In a conference it appeared that property owners objected to the unsightliness and increased noise which would result from overhead electric operation but that their objections would be met by proper construction and what they considered adequate service.

At the hearing it appeared that the electrification was for the purpose of allowing through operation over other lines of the Brooklyn Heights Railroad Company, that the electric operation would be more economical and that service could be given during longer hours than the line was operated at present. It appeared that travel had greatly fallen off on the Montague Street line since the opening of the subway and that whereas three years ago the receipts of this line were \$200 a day they are now only about \$80 a day. The line does not operate on Sundays at present but would operate on Sundays when electrified. The through service would be from Wall Street Ferry to Fulton Ferry.

An important and perhaps controlling consideration in my recommendation of the approval of this application is the agreement on the part of the company to supply a service on Montague Street which will care for the requirements of the business interests which are growing in that vicinity and of the residents. The complaint has been made that great inconvenience is now caused by the infrequent service during the day and its stoppage in the early hour of the evening, with no cars during the night. The company stipulates that it will furnish a regular and frequent service and continue it during the night—at least until one o'clock in the morning. It is largely in reliance upon the company carrying out that agreement in good faith and continuing to supply the service that I recommend the approval of the application. I believe, however, that the original consents of property owners obtained about nineteen years ago and which cover either cable or electric operation, are not sufficient to allow a change of motive power at this late day without obtaining further consents.

By letter of July 23, Mr. Coleman advises that the Commission's consent need not wait the consents of property owners but may be given subject to

the obtaining of the consents required by law. I, therefore, submit the proposed order approving this change of motive power, subject to the following conditions:

(1) That the company shall submit plans of the proposed equipment which must receive the approval of the Public Service Commission for the First District.

(2) That the consents of the local authorities and of the property owners be obtained as required by law.

Thereupon the Commission issued the following order:

In the Matter
of the
Application of the BROOKLYN HEIGHTS
RAILROAD COMPANY for the approval of
the Public Service Commission for the First
District of the change of motive power on
Montague Street, between Court Street and
Wall Street Ferry, in the Borough of Brooklyn,
City of New York, under section 100 of the
Railroad Law.

Case No. 1117
Order Granting Approval
August 3, 1909

Whereas, Brooklyn Heights Railroad Company has filed with the Public Service Commission for the First District its application verified June 18, 1909, praying the approval of the Public Service Commission to the change of motive power on the Montague Street line, between Court Street and Wall Street Ferry, from cable power to overhead electric power, and the Commission having made an order fixing July 14, 1909, at 2:30 o'clock, P. M., at its rooms, No. 154 Nassau Street, as the time and place for the hearing upon said application, and proof of publication and of posting of notices of said time and place of hearing having been made and filed by the Secretary of the Commission, pursuant to the terms of said order for hearing, and the matter coming on to be heard on July 14, 1909, upon said petition, and the papers and documents filed therewith by the Brooklyn Heights Railroad Company, and the said petitioner having duly appeared by W. S. Menden, Esq., and no one appearing in opposition and Arthur DuBois, Esq., attending in behalf of the Commission, and the petitioner having submitted proof in support of said application, and it appearing that the proposed electrification would result in improved service on the Montague Street line,

Now, therefore, it is

Ordered: That the approval of the Public Service Commission for the First District be and the same hereby is given to the change of motive power from cable to overhead electric current by the Brooklyn Heights Railroad Company on its Montague Street line, from Court Street to the Wall Street Ferry, subject to the conditions hereinafter set forth, to wit:

(1) That the company shall submit plans of the proposed equipment which must receive the approval of the Public Service Commission for the First District.

(2) That the consents of the local authorities and of the property owners be obtained as required by law.

Further ordered: That this order shall take effect on the 5th day of August, 1909.

The company having, in pursuance of the final order, submitted and filed two drawings showing the layout of the construction necessary on Montague Street in connection with the change of motive power, the Commission adopted the following resolution approving such plans:

CASE NO. 1117, RESOLUTION APPROVING PLANS OF
CONSTRUCTION.

(September 11, 1909.)

An order having been made on August 3, 1909, giving approval to the change of motive power from cable to overhead electric current by the Brooklyn Heights Railroad Company on its Montague Street line from Court Street to Wall Street Ferry and directing the company to submit to the Commission for its approval plans of the proposed equipment, and said Brooklyn Heights Railroad Company having, in pursuance of such direction, submitted and filed with the Commission two certain drawings, marked respectively "Proposed layout — Montague Street, L-661-1" and "Overhead construction to be used on Montague Street, E 1975-0", of the construction to be made on said Montague Street, from Court Street to the Wall Street Ferry, in the change of the motive power aforesaid, it is

Resolved, That the layout and overhead construction so shown on said drawings be, and the same hereby is, approved.

New York, New Haven and Hartford Railroad Company and Harlem River and Port Chester Railroad Company.—
Application for permission and approval to operate the Harlem River and Port Chester Railroad by the high potential alternating electric current system.

Case No. 1001

Opinion of the Commission
Resolution

OPINION OF THE COMMISSION.

(Adopted January 8, 1909.)

COMMISSIONER BASSETT:—

On November 19, 1908, the New York, New Haven and Hartford Railroad Company and the Harlem River and Port Chester Railroad made application to the Public Service Commission for the First District as above set

forth. The petition contained the allegation that the Harlem River and Port Chester railroad is leased to the New York, New Haven and Hartford Railroad Company under a ninety-nine year lease and that it is now operated by steam locomotives. The change desired is to the method of operation now in use on the New Haven road between Woodlawn, N. Y., and Stamford, Conn. The installation of this system would mean the construction of the overhead catenary suspension trolley wire and the type of locomotive to be used is similar to that used by the New Haven road to Stamford.

An examination of the maps filed with the application shows that the Harlem River and Port Chester railroad runs from the Harlem River, near Port Morris, through West Farms and Pelham Bay Park, to New Rochelle, where it joins the main line of the New Haven railroad. As this line runs in New York county and for a short distance in Westchester county, application was made to both Public Service Commissions and a joint hearing was held on December 11, 1908, pursuant to hearing order, Case No. 1001, which was duly served on the railroad companies, and notice of this hearing was published in The New York Times and The Evening Post, as provided in the order. At the time this hearing order was served on the companies, notice was served to the effect that at the first session the only question to be considered would be whether the Public Service Commission had jurisdiction to approve this proposed change of motive power. The reason for restricting the scope of the first session was that it was doubtful as to whether section 53 of the Public Service Commissions Law made it necessary for the railroads to secure the approval of the Commission to such a change in the method of operating as was contemplated in this case.

At the return of the hearing order, however, as the Commission for the Second District was present and desired other testimony taken, the nature of the proposed change and the structural changes which would be required to allow operation by the contemplated electric system were gone into and the hearing was adjourned subject to the call of the Commission.

After careful examination of the Public Service Commissions Law, and more particularly of section 53 thereof, my opinion is that the railroads may make the change of motive power covered in the application without obtaining the approval of either Commission. Counsel for the railroads contends that the following clause in section 53 requires the approval of the Commissions:

“nor, except as above provided in this section, shall any such corporation or common carrier exercise any franchise or right under any provision of the railroad law, or of any other law, not heretofore lawfully exercised, without first having obtained the permission and approval of the proper commission.”

As I read this section, the franchise or right referred to is in the nature of a privilege granted by some state or municipal authority, such as the right to build an extension or the right to occupy public streets and does not refer to such incidental rights as a railroad has to operate its trains or locomotives by that method which from time to time best serves the purposes of the company and the public. If, as counsel for the railroads suggests, the section is to be read as meaning that no change may be made in mechanical devices unless the proposed change is first submitted to the Commission and approved, then the railroads would be obliged to submit to the Commission's consideration every anticipated mechanical improvement in the construction or operation of cars, locomotives, track or signal devices.

The words "franchises" and "privileges", found in the caption of section 53, which are contained in the original enactment as passed by the Legislature and approved by the Governor, give a clue to the interpretation to be put upon the words "franchise or right", and I am convinced that it is no more necessary for the railroad to have the Commission approve change of motive power than to pass on the employment of a new device.

The fact that section 100 of the Railroad Law requires the approval of the Commission to a change in motive power on street surface railroads has not been overlooked, but that section has never been extended to steam railroads, and it is admitted by counsel to the applicants that section 100 has no bearing on the application now before the Commission and there is no provision of law other than section 53 of the Public Service Commissions Law prohibiting change of motive power or requiring the consent of the Commission to such change.

My opinion therefore is that the Commission has no jurisdiction to act on the application before it.

Thereupon the Commission issued the following order:

In the Matter
of the
Application of the NEW YORK, NEW HAVEN
AND HARTFORD RAILROAD COMPANY
and the HARLEM RIVER AND PORT CHES-
TER RAILROAD for permission and approval
to exercise the right to operate the HARLEM
RIVER AND PORT CHESTER RAILROAD by
the high potential, alternating, electric current
system, under section 53 of the Public Service
Commissions Law.

Case No. 1001
January 8, 1909.

Resolved, That the application of the New York, New Haven and Hartford Railroad Company and the Harlem River and Port Chester railroad for permission and approval to exercise the right to operate the Harlem River and Port Chester railroad by the high potential alternating electric current system, under section 53 of the Public Service Commissions Law, be dismissed on the ground that the certificate asked for is not required by law.

Second Avenue Railroad Company.— Application for permission to exercise the right of changing motive power on Worth Street between Chatham Square and Broadway.

Case No. 1180

Hearing Order

The company, on November 22, 1909, petitioned the Commission for its permission and approval under section 53 of the Public Service Commissions Law to the exercise by the company of the right of changing the motive power on Worth Street be-

tween Chatham Square and Broadway from horses to an underground current of electricity in accordance with an order previously obtained from the Board of Railroad Commissioners. The Commission, on November 26, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on December 1st, and that the company publish due notice thereof. Hearings were held on December 1st and subsequently until December 27th, when the matter was adjourned to January 5, 1910.

Applications for Permission to Construct Extensions.

Bronx Traction Company.—Application for permission to construct an extension on Clason's Point Road.

Case No. 1059

Hearing Order

Order granting application

Order modifying order

granting application

The company, on February 2, 1909, petitioned the Commission, under section 53 of the Public Service Commissions Law, for permission and approval to the construction of an extension on Clason's Point Road from Westchester Avenue to Long Island Sound. The Commission, on February 5th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on February 16th, and that the company publish due notice thereof. A hearing was held February 16, 1909. Thereafter the Commission issued the following order:

In the Matter
of the
Application of the BRONX TRACTION COMPANY for the permission and approval of this Commission to the construction and operation of an extension of its street surface railroad on Clason's Point Road, Borough of The Bronx, City of New York.

Case No. 1059
Order Granting Application
March 16, 1909.

The Bronx Traction Company having made application to the Public Service Commission for the First District by a petition duly verified and filed, and accompanied by the documents required by the rules of practice of the Commission, for the permission and approval of the Commission to

the construction and operation of an extension of its street surface railroad upon the route described in its statement of proposed extension, duly filed pursuant to Section 90 of the Railroad Law with the Secretary of State and with the County Clerk of New York County, the following being a description of the streets, roads, avenues and highways in and upon which it is proposed to construct, maintain and operate such extension, in the Borough of The Bronx, City of New York, viz.:

“Beginning at and connecting with its double street surface track now constructed on Westchester Avenue, at the intersection of said avenue with Clason’s Point Road and running thence easterly with double tracks and along said Clason’s Point Road to the public place at the easterly terminus thereof and running thence with a loop in, upon and along said public place.”

And the Commission having fixed Tuesday, February 16, 1909, at 2:30 P. M., at the office of the Commission at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing containing a description of the route in and upon which the company proposes to construct and operate said extension be published in certain newspapers, and at certain times specified by the Commission; and said hearing having been had by and before the Commission at the time and place aforesaid, Commissioner Eustis presiding; and the said applicant, The Bronx Traction Company, having appeared upon said hearing by Henry A. Robinson, its counsel, and having presented proof of publication of notice of such application and hearing, as required by the Commission, and having presented its allegations and made its proofs whereby it satisfied the Commission that the construction and operation of said extension is necessary and convenient for the public service, and the Commission having determined, after said hearing, that the construction and operation of the extension of said company’s road, as described in the statement of proposed extension thereof, filed with the Secretary of State and with the County Clerk of New York County, is necessary and convenient for the public service; now therefore, it is

Ordered: That said application be and the same hereby is granted; that the permission and approval of the Public Service Commission for the First District is hereby granted to the construction and operation by the Bronx Traction Company of the extension of said company’s line upon the route and as described in its statement of proposed extension, duly filed with the Secretary of State and with the County Clerk of New York County, as aforesaid, said route being described in said statement as follows:

“Beginning at and connecting with its double street surface track now constructed on Westchester Avenue, at the intersection of said avenue with Clason’s Point Road and running thence easterly with double tracks and along said Clason’s Point Road to the public place at the easterly terminus thereof and running thence with a loop in, upon and along said public place.”

Nothing herein contained shall be construed as an approval by the Commission of the contract regarding said proposed extension entered into between said company and The City of New York, dated February 1, 1909, except as to the grant of the right to construct and operate an extension of said company’s line over the route above described and for and during the periods mentioned in said contract.

The permission and approval hereby granted shall not be construed to revive or validate any lapsed or invalid franchise, or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture. And it is

Further ordered: That this order shall take effect immediately and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

The company having made application for a modification of the order granting the application, the Commission issued the following order:

CASE NO. 1059, ORDER MODIFYING ORDER GRANTING APPLICATION.

(May 7, 1909.)

The Bronx Traction Company having applied in writing on May 1, 1909, for a change and modification in Order No. 1059, heretofore made on March 16, 1909, and the Commission being of the opinion that the original order No. 1059 for the permission and approval of this Commission to the construction and operation of the extension of a street surface railroad on Clason's Point Road, Borough of The Bronx, City of New York, should be changed and modified in certain particulars,

Ordered: That Order No. 1059, made March 2, 1909, be, and the same hereby is, changed and modified to read as follows:

CASE NO. 1059, ORDER GRANTING APPLICATION.

The Bronx Traction Company having made application to the Public Service Commission for the First District by a petition duly verified and filed, and accompanied by the documents required by the rules of practice of the Commission, for the permission and approval of the Commission to the construction and operation of an extension of its street surface railroad upon the route described in its statement of proposed extension, duly filed pursuant to section 90 of the Railroad Law with the Secretary of State and with the County Clerk of New York County, the following being a description of the streets, roads, avenues and highways in and upon which it is proposed to construct, maintain and operate such extension, in the Borough of The Bronx, City of New York, viz.:

"Beginning at and connecting with its double street surface track now constructed on Westchester Avenue, at the intersection of said avenue with Clason's Point Road and running thence easterly with double tracks and along said Clason's Point Road to the public place at the easterly terminus thereof and running thence with a loop in, upon and along said public place."

And the Commission having fixed Tuesday, February 13, 1909, at 2:30 P. M., at the office of the Commission, at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing containing a description of the route in and upon which the company proposes to construct and operate said extension be published in certain newspapers, and at certain times specified by the Commission; and said hearing having been had by and before the Commission at the time and place aforesaid, Commissioner Eustis presiding;

and the said applicant, the Bronx Traction Company, having appeared upon said hearing by Henry A. Robinson, its counsel, and having presented proof of publication of notice of such application and hearing, as required by the Commission, and having presented its allegations and made its proofs whereby it satisfied the Commission that the construction and operation of said extension is necessary and convenient for the public service; and the Commission having determined, after said hearing, that the construction and operation of the extension of said company's road, as described in the statement of proposed extension thereof, filed with the Secretary of State and with the County Clerk of New York County, is necessary and convenient for the public service; now therefore, it is

Ordered: That said application be, and the same hereby is, granted; that the permission and approval of the Public Service Commission for the First District is hereby granted to the construction and operation by the Bronx Traction Company of the extension of said company's line upon the route and as described in its statement of proposed extension, duly filed with the Secretary of State and with the County Clerk of New York County, as aforesaid, said route being described in said statement as follows:

"Beginning at and connecting with its double street surface track now constructed on Westchester Avenue, at the intersection of said avenue with Clason's Point Road and running thence easterly with double tracks and along said Clason's Point Road to the public place at the easterly terminus thereof and running thence with a loop in, upon and along said public place."

Nothing herein contained shall be construed as an approval by the Commission of the contract regarding said proposed extension entered into between said company and The City of New York, dated February 1, 1909, except as to the grant of the right to construct and operate an extension of said company's line over the route above described and for and during the periods mentioned in said contract.

The permission and approval hereby granted shall not be construed to revive or validate any lapsed or invalid franchise, or to enlarge or add to the powers and privileges contained in the grant of any franchise, or to waive any forfeiture.

East River Terminal Railroad.—Application for permission and approval to begin construction of railroad.

Case No. 1093

Hearing Order
Order for publication of
Notice of Hearing
Resolution granting per-
mission.

The East River Terminal Railroad petitioned the Commission, under section 53 of the Public Service Commissions Law, for per-

mission and approval to begin the construction of its railroad and to exercise any franchise or right under any provision of the Railroad Law or otherwise. The Commission, on April 27, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on May 13, 1909.

In the Matter
of the
Application of the EAST RIVER TERMINAL
RAILROAD under section 53 of the Public
Service Commissions Law for permission and
approval to begin the construction of its rail-
road and to exercise any franchise or right
under any provision of the Railroad Law or
otherwise.

Case No. 1093
Order for Publication of
Notice of Hearing
May 6, 1909.

An application having been made by the East River Terminal Railroad under section 53 of the Public Service Commissions Law to the Public Service Commission for the First District for its permission and approval to begin the construction of the railroad of said East River Terminal Railroad and to exercise any franchise or right under any provision of the Railroad Law or otherwise, and an order having been made by the Public Service Commission for the First District on the 27th day of April, 1909, directing that a hearing on said application be had at the office of the Public Service Commission for the First District, No. 154 Nassau Street, New York City, Borough of Manhattan, on the 13th day of May, 1909, at three o'clock in the afternoon, and said order having been duly served upon the East River Terminal Railroad on the 28th day of April, 1909, it is

Ordered: That the said East River Terminal Railroad publish a notice of said application and hearing in the following newspapers, to wit: The Brooklyn Times and the Brooklyn Standard Union, two newspapers published in the City of New York, Borough of Brooklyn on the 8th and 10th days of May, 1909, such notice to be in the following form, to wit:

PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT.

Application has been made to the Public Service Commission for the First District by the East River Terminal Railroad, pursuant to the provisions of section 53 of the Public Service Commissions Law for permission and approval to construct, maintain and operate railroad tracks in the Borough of Brooklyn, City of New York, as follows:

(a) Four tracks beginning at the westerly side of Wythe avenue; thence across Wythe avenue to the easterly side thereof, all of such tracks to be situated in the portion of Wythe avenue between the southerly side line of North 4th street and a line parallel thereto crossing Wythe avenue about sixty (60) feet southerly therefrom.

(b) Six tracks beginning at the westerly side line of Kent avenue; thence across Kent avenue to the easterly side line thereof, all of such tracks to be situated in the portion of Kent avenue, between the southerly side line of

North 4th street and the line parallel thereto, and crossing Kent avenue about one hundred and twenty (120) feet southerly therefrom.

(c) One track beginning at the westerly side line of Kent avenue; thence curving northerly and easterly across Kent avenue and North 4th street to the northerly side line of North 4th street at a point about one hundred and ten (110) feet easterly from the easterly side line of Kent avenue.

The nature of the franchise or right which said East River Terminal Railroad proposes to exercise is the franchise or right granted to it by the Board of Estimate and Apportionment of the City of New York on the 15th day of March, 1909.

A hearing upon said application will be held in the office of the Public Service Commission for the First District, No. 154 Nassau Street, New York City, Borough of Manhattan, on the 13th day of May, 1909, at three o'clock in the afternoon.

Dated New York, May , 1909.

EAST RIVER TERMINAL RAILROAD,

By

It is further ordered: That proof of said publication be filed with the Secretary of the Public Service Commission for the First District on or before the opening of said hearing.

Hearings were held May 13th and 17th.

The Commission adopted the following resolution:

CASE NO. 1003.—GRANT OF PERMISSION AND APPROVAL UNDER SECTION 53 OF THE PUBLIC SERVICE COMMISSIONS LAW.

(June 8, 1909.)

An application having been duly made by the East River Terminal Railroad under section 53 of the Public Service Commissions Law to the Public Service Commission for the First District for its permission and approval to construct its railroad and to exercise a certain franchise under a contract made March 15, 1909, between the City of New York and the East River Terminal Railroad, and an order having been made by the Public Service Commission for the First District directing that a hearing on said application be had, and notice of said hearing having been duly given to said East River Terminal Railroad, and a notice of said hearing having been duly published in the Brooklyn Times and the Brooklyn Standard Union, two newspapers published in the City of New York, Borough of Brooklyn, as in said order provided, and said hearing having been duly had on the 13th and 17th days of May, 1909, before Mr. Commissioner Bassett, Mr. Henry F. Cochrane, of Counsel for the East River Terminal Railroad, Mr. A. M. Williams, of Counsel for the Brooklyn Heights Railroad Company, Mr. George D. Yeomans, of Counsel for the Brooklyn Rapid Transit Company, and Messrs. Robinson, Biddle & Benedict, of Counsel for the Pennsylvania Railroad Company, appearing; and the Commission having determined after said hearing that the construction of said railroad and the exercise of said franchise under said contract is necessary and convenient for the public service; it is

Resolved: That the permission and approval of the Public Service Commission for the First District be and the same hereby are granted to the East River Terminal Railroad for the construction of its railroad in the Borough of Brooklyn, City of New York, and for the exercise of the said franchise under said contract to construct railroad tracks, as follows:

(a) Four tracks beginning at the westerly side of Wythe Avenue; thence across Wythe Avenue to the easterly side thereof, all of such tracks to be situated in the portion of Wythe Avenue between the southerly side line of North 4th Street and a line parallel thereto crossing Wythe Avenue about sixty (60) feet southerly therefrom.

(b) Six tracks beginning at the westerly side line of Kent Avenue; thence across Kent Avenue to the easterly side line thereof, all of such tracks to be situated in the portion of Kent Avenue, between the southerly side line of North 4th Street and the line parallel thereto, and crossing Kent Avenue about one hundred and twenty (120) feet southerly therefrom.

(c) One track beginning at the westerly side line of Kent Avenue; thence curving northerly and easterly across Kent Avenue and North 4th Street to the northerly side line of North 4th Street at a point about one hundred and ten (110) feet easterly from the easterly side line of Kent Avenue.

New York and North Shore Traction Company.—Application for approval of construction of extension from Flushing to Whitestone.

Case No. 1103

Hearing Order

Opinion of the Commission

Resolution granting application

The company petitioned the Commission, under section 53 of the Public Service Commissions Law, for permission and approval of the construction of an extension of its street surface railroad from Chestnut Street, Flushing, to Whitestone, in the Borough of Queens. The Commission, on May 7, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on May 25th, and that the company publish due notice thereof. A hearing was held May 25th.

CASE NO. 1103, OPINION OF THE COMMISSION.

(Adopted June 15, 1909.)

COMMISSIONER BASSETT:—

The New York and North Shore Traction Company already has a line of street surface railways operating in Nassau County between the villages of

Mineola, Roslyn and Fort Washington. It has filed with the Secretary of State the proper certificate of extension, and has received the consent of the local authorities for the construction of an extension of its line from Roslyn on the Flushing and North Hempstead Turnpike or Broadway to the easterly boundary line of New York City. The company has also filed with the Secretary of State the necessary certificates of extension, and has received from the Board of Estimate and Apportionment of the City of New York the necessary consents of the local authorities for an extension of its railway in the Borough of Queens from the City Line at Little Neck on various streets through Bayside to Main Street, Flushing, and also a branch line extending from a point in Chestnut Street opposite Central Avenue, to Whitestone.

The evidence presented at the hearings showed that the proposed extensions will not parallel any other street surface railroad, and will serve a community which is now entirely without street railway transportation. Unquestionably the construction of these extensions is a matter of public convenience and necessity.

While the franchise contracts granted to this company by the city authorities are subject to objection in certain details relative to jurisdiction in matters of service and equipment, and possibly also in regard to the burdens imposed upon the company by the city, I find nothing in these franchises that so vitally endangers the proper development of the transportation system of the city in the future as to justify this Commission in withholding its approval under the circumstances.

The most important danger in connection with the exercise of these franchises results from the narrowness of Broadway at Douglaston, and also at the point where it is intersected by Tenth Street, Bayside, together with the heavy grades at these points. The Board of Estimate in its contracts has reserved the right at any time before or during the construction of the road to require by resolution that the company should either place its tracks on a private right of way outside of the street line or else purchase and cede to the city a strip of land adjacent to the street to effect the necessary widening, in any case where, in the judgment of the Board, the width of the street is insufficient to accommodate both the railway and other traffic. The company has filed with the Commission certified copies of options which it has secured from the Douglaston Realty Company and the McKnight Realty Company, providing for the proper widening of Broadway at Douglaston.

Inasmuch as the Board of Estimate has reserved to itself adequate authority to protect the public interest in connection with the widening of streets wherever such widening may be deemed necessary, and inasmuch as the Public Service Commission would, in any case, have authority to make adequate provision for insuring the safety of such operation, I would recommend that both applications be approved, and that the necessary certificates be issued authorizing this company to construct its road and exercise its franchise on the proposed extensions in the Borough of Queens.

Thereupon the Commission adopted the following resolution:

In the Matter
of the
Application of THE NEW YORK AND NORTH
SHORE TRACTION COMPANY under section
53 of the Public Service Commissions Law for
permission and approval for the construction
of the extension of its street surface railroad
from Chestnut Street, Flushing, to Whitestone,
in Queens Borough, New York City, and to
exercise its franchise.

Case No. 1103
Grant of Permission and
Approval under Sec-
tion 53 of the Public
Service Commissions
Law.

June 15, 1909.

An application having been duly made by The New York and North Shore Traction Company under section 53 of the Public Service Commissions Law to the Public Service Commission for the First District for its permission and approval for the construction of the extension of its street surface railroad from Chestnut Street, Flushing, to Whitestone, in Queens Borough, New York City, and to exercise a certain franchise under a contract, dated April 14, 1909, between the City of New York and The New York and North Shore Traction Company, and an order having been made by the Commission directing that a hearing on said application be had, and notice of said hearing having been duly given to said The New York and North Shore Traction Company, and a notice of said hearing having been duly published in the Flushing Journal and the Flushing Daily Times, two newspapers published in the Borough of Queens, City of New York, as in said order provided, and said hearing having been duly had on the 25th day of May, 1909, before Mr. Commissioner Bassett, Mr. James A. MacElhinney, of Counsel for The New York and North Shore Traction Company, Mr. William B. Parsons of Counsel for the Flushing Association, Mr. I. L. Zinke, representing the Auburndale Realty Company, Mr. Frank E. Knab, representing the Whitestone Improvement Association, Mr. John Adikes, representing the United Civics, Borough of Queens, and Mr. Henry Clay Weeks, representing the Flushing Association, appearing, and the Commission having determined after said hearing that the construction of said railroad and the exercise of said franchise under said contract is necessary and convenient for the public service, it is

Resolved: That the permission and approval of the Public Service Commission for the First District be and the same hereby are granted to The New York and North Shore Traction Company for the construction of the extension of its railroad and to exercise said franchise, to wit:—To construct a railroad,

BEGINNING and connecting with the proposed tracks of the Company to be constructed upon the route for which a franchise was granted to the Company by contract dated February 1, 1909, in Chestnut Street, at a point near the intersection of Central Avenue with Chestnut Street; thence northerly upon private property, and crossing Bayside Avenue; thence, still upon private property, to Higgins Lane at a point thereon near the intersection of said Higgins Lane with Seventh Avenue; thence in and upon Higgins Lane to Seventh Avenue; thence northerly in and upon Seventh Avenue to Fourth Street; thence easterly in and upon Fourth Street to Eighth Avenue; thence northerly in and upon Eighth Avenue to Twenty-first Street; thence easterly in and upon Twenty-first Street to Eleventh Avenue; thence northerly

in and upon Eleventh Avenue to a point about 300 feet north of the north side line of the Boulevard in the former Village of Whitestone, all in the Borough of Queens; and it is further

Resolved: That The New York and North Shore Traction Company be and hereby is requested prior to the construction hereafter of any portion of said railroad or appurtenances thereto within the First District, or the installation of the power equipment thereof for operation of the same, or any alteration or change in said construction or said power equipment, to file with this Commission plans, maps and specifications showing in detail the nature of all such future construction or installation for electrical or other operation of said railroad, for the approval of the Commission.

Nothing herein contained shall be construed as a relinquishment or waiver of the jurisdiction, supervision or powers of the Commission, but such jurisdiction, supervision and powers are expressly reserved, to be exercised pursuant to law.

New York and North Shore Traction Company.—Application for approval of extension of road from Little Neck to Flushing.

Case No. 1104

Hearing Order

Opinion of the Commission

Resolution granting approval

The company petitioned the Commission, under section 53 of the Public Service Commissions Law, for permission and approval of the construction of an extension of its street surface railroad from the New York City line at Little Neck to and into Flushing, in the Borough of Queens. The Commission, on May 7, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on May 25th, and that the company publish due notice thereof. A hearing was held on May 25, 1909. See opinion of the Commission in Case No. 1103, page 86.

Thereupon the following resolution was adopted:

<p>In the Matter of the Application of the NEW YORK AND NORTH SHORE TRACTION COMPANY under section 53 of the Public Service Commissions Law for permission and approval for the construction of the extension of its street surface railroad from New York City line at Little Neck, to and into Flushing, in Queens Borough, New York City, and to exercise its franchise.</p>

Case No. 1104
Grant of Permission and
Approval under Sec-
tion 53 of the Public
Service Commissions
Law.

June 15, 1909.

An application having been duly made by the New York and North Shore Traction Company under section 53 of the Public Service Commissions Law

to the Public Service Commission for the First District for its permission and approval for the construction of the extension of its street surface railroad from the New York City Line at Little Neck, to and into Flushing, in Queens Borough, New York City, and to exercise a certain franchise under a contract, dated February 1, 1909, between the City of New York and the New York and North Shore Traction Company, and an order having been made by the Commission directing that a hearing on said application be had, and notice of said hearing having been duly given to said the New York and North Shore Traction Company, and a notice of said hearing having been duly published in the Flushing Journal and the Flushing Daily Times, two newspapers published in the Borough of Queens, City of New York, as in said order provided, and said hearing having been duly had on the 25th day of May, 1909, before Mr. Commissioner Bassett, Mr. James A. MacElhinney, of Counsel for The New York and North Shore Traction Company, Mr. William B. Parsons, of Counsel for the Flushing Association, Mr. I. L. Zinke, representing the Auburndale Realty Company, Mr. Frank E. Knab, representing the Whitestone Improvement Association, Mr. John Adikes, representing the United Civics, Borough of Queens, and Mr. Henry Clay Weeks, representing the Flushing Association, appearing, and the Commission having determined after said hearing that the construction of said railroad and the exercise of said franchise under said contract is necessary and convenient for the public service, it is

Resolved: That the permission and approval of the Public Service Commission for the First District be and the same hereby are granted to The New York and North Shore Traction Company for the construction of the extension of its railroad and to exercise said franchise, to wit:—To construct a railroad,

BEGINNING at a point where the boundary line between The City of New York and the County of Nassau intersects Broadway in the Borough of Queens; thence in and upon Broadway to the easterly side of Bell Avenue, in the former Village of Bayside;

Also beginning at the intersection of Broadway and Tenth Street in the former Village of Bayside, and there connecting with the above-described route on Broadway; thence in and upon Tenth Street to an unnamed street; thence in and upon said unnamed street to Bayside Boulevard; thence in and upon Bayside Boulevard to Ashburton Avenue; thence in and upon Ashburton Avenue to Chambers Street; thence in and upon Chambers Street to Crocheron Avenue; thence in and upon Crocheron Avenue to Twenty-third Street; thence in and upon Twenty-third Street to State Street; thence in and upon State Street to Thirteenth Street; thence in and upon Thirteenth Street to Chestnut Street; thence in and upon Chestnut Street, across Murray Street. Murray Lane, and continuing in and upon private property in line of the prolongation of Chestnut Street, to Chestnut Street at Flushing Place; and thence still in and upon Chestnut Street to Whitestone Avenue; thence in and upon Whitestone Avenue to State Street; thence in and upon State Street to Farrington Street; the railway upon all of said route to be of double track; thence by single track continuing in and upon State Street from Farrington Street to Prince Street; thence in and upon Prince Street to Broadway; thence in and upon Broadway to Farrington Street; thence in and upon Farrington Street to State Street, and there connecting with the double track above described; all in the Borough of Queens, City of New York; and it is further

Resolved: That The New York and North Shore Traction Company be and hereby is requested prior to the construction hereafter of any portion of said railroad or appurtenances thereto within the First District, or the installation of the power equipment thereof for operation of the same, or any alteration or change in said construction or said power equipment, to file with this Commission plans, maps and specifications showing in detail the nature of all such future construction or installation for electrical or other operation of said railroad, for the approval of the Commission.

Nothing herein contained shall be construed as a relinquishment or waiver of the jurisdiction, supervision or powers of the Commission, but such jurisdiction, supervision and powers are expressly reserved, to be exercised pursuant to law.

**New York and Queens County Railway Company.— Application
for permission and approval to construct extension.**

Case No. 1125

Hearing Order

Opinion of the Commission

Resolution granting approval

The company, on June 22, 1909, petitioned the Commission for approval of the construction of an extension of its railroad over Second Avenue, from Pierce Avenue to Jackson Avenue, in the Borough of Queens. The Commission, on June 23, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition, and that the company publish due notice thereof. A hearing was held on June 29, 1909.

OPINION OF THE COMMISSION.

(Adopted July 2, 1909.)

COMMISSIONER BASSETT:—

The New York and Queens County Railway Company now owns and operates, as a part of its so-called Dutch Kills Line, tracks as follows:

On Pierce Avenue from Debevoise Avenue to Lockwood Street.
Double tracks.

On Lockwood Street from Pierce Avenue to Old Ridge Road
(*private right of way*). Double tracks.

On Old Ridge Road from Lockwood Street to Freeman Avenue at
the intersection of Academy Street. Single track.

On Academy Street from Freeman Avenue to the Queensboro
Bridge Plaza. Double tracks.

Across the Plaza and along Jane Street to Jackson Avenue.
Double tracks.

For the reason that this route crosses the plaza of the Queensboro Bridge, and the present location of the company's tracks seriously interferes with the

proper development of the plaza for transit purposes, the company, at the request of the city, made application to the Board of Estimate and Apportionment to change that part of its Dutch Kills route above described so as to bring its tracks all the way down Debevoise Avenue or Second Avenue from the present turn at Pierce Avenue to Jackson Avenue at a point about two blocks northerly from the Queensboro Bridge Plaza.

On December 4, 1907, the company filed in the office of the Secretary of State a certificate of extension covering the proposed new route. The Board of Estimate and Apportionment, by resolution approved May 24, 1909, gave the company the necessary franchise for the construction and operation of its road along the line of this extension. June 10, 1909, the company and the city executed a franchise contract, stipulating the terms and conditions upon which the franchise could be exercised. Among other things this contract provides that the new tracks on Debevoise Avenue shall be completed and placed in full operation within nine months from the date when the company obtains the necessary consents of property owners or the favorable decision of the Appellate Division of the Supreme Court relative to the construction of its route. The contract also provides that within thirty days after the date of its execution by the Mayor (June 10, 1909), the company shall take the necessary proceedings under the provisions of the Railroad Law for the abandonment of that portion of its existing route first above described.

Attached to the company's petition is an affidavit by Arthur G. Peacock, an attorney in the office of James L. Quackenbush, General Attorney for the company, to the effect that the consents of property owners secured for the proposed extension represent an assessed valuation of property amounting to \$267,150 of the total assessed valuation of \$386,675 of property abutting on that part of Debevoise Avenue or Second Avenue where the proposed extension is to be built. Copies of these consents were submitted in evidence at the hearings in this case, the date of the most recent one being October 27, 1908. The evidence submitted in this case shows that the construction of a street surface railway on Debevoise Avenue or Second Avenue as proposed is required by public convenience and necessity.

While the franchise contract granted to this company by the city authorities is subject to objection in certain details relative to jurisdiction in matters of service and equipment, I find nothing in this franchise that so vitally endangers the proper development of the transportation system of the city in the future as to justify this Commission in withholding its approval under the circumstances. On the other hand, the desirability of the proposed change in the Dutch Kills Line operated by this company is obvious, and the public benefits to be derived therefrom in the simplification of transit arrangements at the plaza of the Queensboro Bridge are great. I therefore recommend that the company's application be approved, and that the necessary certificate be issued authorizing this company to construct its road and exercise its franchise on the proposed extension in the Borough of Queens.

Thereupon the Commission adopted the following resolution:

In the Matter
of the
Application of the NEW YORK AND QUEENS
COUNTY RAILWAY COMPANY for approval
of a franchise not heretofore lawfully exer-
cised, under section 53 of the Public Service
Commissions Law.

Extension of street surface railroad on Second
Avenue (Debevoise Avenue) from Pierce Avenue
to Jackson Avenue, Borough of Queens, City
of New York.

Case No. 1125
Grant of Permission and
Approval under Sec-
tion 53 of the Public
Service Commissions
Law.

July 2, 1909.

An application having been duly made by the New York and Queens County Railway Company under section 53 of the Public Service Commissions Law to the Public Service Commission for the First District for its permission and approval of the construction of the extension of its street surface railroad over Second Avenue (Debevoise Avenue), from Pierce Avenue to Jackson Avenue, in the Borough of Queens, City of New York, and to exercise a certain franchise under a contract dated June 10, 1909, between The City of New York and the New York and Queens County Railway Company, and an order having been made by the Commission directing that a hearing on said application be had, and notice of said hearing having been duly given to the New York and Queens County Railway Company and a notice of said hearing having been duly published in the New York Times and in the Brooklyn Times, as in said order provided, and the said hearing having been duly had on June 29, 1909, before Mr. Commissioner Bassett, A. J. Kenyon, Esq., of counsel, appearing for the New York and Queens County Railway Company, Arthur DuBois, Esq., attending for the Commission, and the Commission having determined after said hearing that the construction of said railroad and the exercise of said franchise under said contract is necessary or convenient for the public service, it is

Resolved: That the permission and approval of the Public Service Commission for the First District be and the same hereby are granted to the New York and Queens County Railway Company for the construction of the extension of its railroad and to exercise said franchise to wit, construct the railroad,

on Second Avenue (Debevoise Avenue) from Pierce Avenue to Jackson Avenue, in the Borough of Queens, City of New York.

And it is further

Resolved: That the New York and Queens County Railway Company be and it hereby is requested, prior to the construction hereafter of any portion of said railroad or appurtenances thereto within the First District, or the installation of the power equipment therefor for operation of the same, or any alteration or change in said construction or said power equipment, to file with this Commission plans, maps and specifications showing in detail the nature of all future construction or installation for electrical or other operation of said railroad, for the approval of the Commission.

Nothing herein contained shall be construed as a relinquishment or waiver of the jurisdiction, supervision or powers of the Commission; but such jurisdiction, supervision and powers are expressly reserved to be exercised pursuant to law.

New York and Queens County Railway Company.— Application for permission and approval of the construction of an extension across Queensboro Bridge.

Case No. 1193

Hearing Order

The company, on December 18, 1909, petitioned the Commission for its permission and approval pursuant to the provisions of section 53 of the Public Service Commissions Law, to the construction of an extension of its railroad across the Queensboro (or Blackwell's Island) Bridge. The Commission, on December 21, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on January 3, 1910, and that the company publish due notice thereof.

South Shore Traction Company.— Application for permission to construct an extension.

Case No. 1032

Hearing Order

Order for further hearing

Opinion of the Commission

Order denying application

Rehearing Order

Order denying petition for abrogation

Final Order

The company, on December 28, 1908, petitioned the Commission under section 53 of the Public Service Commissions Law, for permission and approval of the construction of an extension to and over Queensboro Bridge. The Commission, on January 5, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on January 19, 1909, and that the company publish due notice thereof. Hearings were held on January 19 and 26, 1909. The hearing having been closed with

the undersanding that in case it should become necessary for the Commission to have futher information they would call upon the company to supply it, the Commission, desiring such further information, on May 11, 1909, directed that a further hearing be had. Hearings were held on May 15th, 18th and 24th.

OPINION OF THE COMMISSION.

(Adopted June 8, 1909.)

COMMISSIONER BASSETT:—

This application calls for the approval of the construction of a trunk line street railway from the boundary line of Nassau County through Jamaica to Long Island City, and the exercise of a franchise therefor and for through and local transit across Queensboro Bridge to Second Avenue, Manhattan. The company's route within the city limits covers a distance of thirteen miles in the Borough of Queens and one and a half miles on the Queensboro Bridge. A double track railway is proposed for practically the entire route except the portion on Central Avenue southeast of Jamaica. At present there is no trolley line extending from the eastern limits of the Borough of Queens into Manhattan or within several miles of the East River. The lines of the Long Island Electric Railway Company and the New York and Long Island Traction Company, which enter the city from Nassau County, extend no further west than the eastern limits of the Borough of Brooklyn near Woodhaven. On the other hand, the lines of the New York and Queens County Railway Company extend no further east than Jamaica and Flushing, and do not as yet cross the East River into Manhattan. The company's route traverses the heart of the Borough of Queens by a direct line and strikes Manhattan almost exactly at right angles. The territory through which this route is laid out is almost totally undeveloped for residence purposes, except at the village of Jamaica. Yet it lies directly opposite the densely peopled Borough of Manhattan, separated from it only by the East River. The Borough of Queens has an area nearly six times the size of Manhattan. The territory between Long Island City and Jamaica lying one mile on either side of the South Shore route is equal to all that portion of Manhattan north of 59th Street. This territory has remained almost without population because of the absence of transit facilities. Until 1883 there was no way of getting across the East River except by boat. In that year the New York and Brooklyn Bridge was opened, far below the Borough of Queens, however. It was twenty years before another means of crossing the river was provided. But the period of seven or eight years beginning with December 19, 1903, when the Williamsburg Bridge was opened, will have seen the opening of six different bridges and tunnels with facilities for through operation of cars into Manhattan. Three of these, the Queensboro Bridge, the Pennsylvania Tunnels and the Steinway Tunnel, tap the Borough of Queens directly, while the Brooklyn Bridge, the subway, and especially the Williamsburg Bridge tap it indirectly. If to these tunnels and bridges are added adequate transit facilities in Queens itself, there must inevitably be a wonderful development in the population of this borough within the next few years. What may happen in fifty years is utterly beyond our power

to calculate. The South Shore Traction Company's route is a trunk line admirably adapted to the development of a great territory within easy reach of the myriads who are now crowding Manhattan because they must live where they can have reasonable access to their work. From Fulton Street, Jamaica, to 59th Street and Second Avenue, Manhattan, is only about eight miles, or the same distance as from the latter point to Kingsbridge.

It is hardly necessary to say that this Commission looks with unusual favor upon the proposed route of the applicant company, running as it does on a great thoroughfare that strikes like an arrow into the heart of Manhattan. It goes without saying that the provision of adequate transit facilities, bringing a vast residence territory lying opposite Manhattan Island within easy reach of the business centers of the city, would be of inestimable benefit to the entire community.

Under these circumstances the Commission would not think of withholding its prompt approval for the construction of the proposed railway and the exercise by the applicant company of the franchise granted by the local authorities, if it were not compelled to do so by controlling considerations of public policy affecting the future welfare of the greater city, but much as we may regret it, such controlling considerations exist in the present case.

Under the franchise contract granted by the local authorities, the applicant company is put in a position of control for street railway purposes over the only available thoroughfare between Long Island City and Jamaica, for a period of fifty years, and no provision is made by which this company can be compelled to build the extensions necessary for the full development of the territory dependent upon this thoroughfare as the need may arise.

This proposition is established by the following considerations:

1. *The Only Available Thoroughfare.*—The route from the Queensboro Bridge passing over the Sunnyside yard by the proposed new viaduct, and thence through Thomson Avenue and Hoffman Boulevard, to Jamaica, is the only feasible through route between these termini available with the present layout of streets in the Borough of Queens. A careful examination of the physical conditions and the general relations of this district to other parts of the city makes it appear reasonably certain that no other thoroughfare between Jamaica and Queensboro Bridge will be laid out and constructed for many years to come, if ever. The Sunnyside yard, constructed under an agreement between the city on one hand and the Long Island Railroad Company and the predecessor of the Pennsylvania Tunnel and Terminal Railroad Company on the other hand, lies directly across the natural approaches of the Queensboro Bridge from the southern Queens side. A viaduct over this yard, reaching from Thomson Avenue directly to the end of the bridge plaza, is provided for in the city's contract with the railroad companies. This viaduct will be nearly two thousand feet long and forms a portion of the route of the applicant company. It is the only viaduct provided for over the Sunnyside yard that brings direct access to the Queensboro Bridge. Directly to the north of the Sunnyside yard and passing between it and the bridge plaza is Jackson Avenue, an important thoroughfare, connecting north shore points with Long Island City. This avenue is already occupied by the New York and Queens County Railway Company in the exercise of franchises unlimited

as to time. The provision of another through route from Queensboro Bridge to Jamaica that could in any way compete successfully from the transit standpoint with the route of the South Shore Traction Company would involve an enormous expense and extraordinary difficulties, not only by reason of the position of the Sunnyside yard with reference to the bridge, but also because it would involve going diagonally across the intervening network of streets. It is also to be noted that several important cemeteries and one large park are to be reckoned with in connection with any future plans for the opening of additional thoroughfares to parallel Thomson Avenue and Hoffman Boulevard on the south. Furthermore, it should be noted that the city has plans on foot to widen Thomson Avenue and Hoffman Boulevard to a width of two hundred feet, which would render the cutting through of other thoroughfares between the same termini less necessary from the standpoint of general traffic.

It is admitted by all parties that the route selected is the only one at present available, and under the circumstances the likelihood of the opening of a competing route is too remote to be seriously considered in dealing with this franchise.

2. *The Exclusiveness of the Grant.*—Evidently in recognition of the admitted geographical monopoly, elaborate provisions were inserted in this franchise apparently for the purpose of keeping this thoroughfare open and preserving the city's control over future transit development in the Borough of Queens. The more we examine these provisions, however, the more futile they appear. While making promises pleasant to the ear of the casual observer, and while recognizing the abstract right of the city to let other companies use the applicant's route as the exigencies of the future may demand, they prescribe conditions for such use that would in all human probability be prohibitive.

It has been claimed on behalf of the applicant company that under the terms of this contract the city could permit any number of other companies to parallel this company's tracks on Hoffman Boulevard or any other streets along its route. While a multiplication of tracks on the same street would not in any case be a satisfactory solution of the problem of transit monopoly, except under most extraordinary conditions, a careful examination of the company's contract with the city shows that the claim referred to is substantially unfounded. The South Shore Company binds itself to consent to the construction of any other railroad on the same route "which may necessitate the use of any portion of the railway which shall be constructed by the company pursuant to this contract." The terms upon which such use may be enjoyed are set forth specifically, and are practically prohibitive.

The South Shore Company binds itself to permit any other company duly authorized by the city to use the South Shore Company's tracks upon the payment of an initial sum and of an annual rental. It is the scheme for determining the amount of these payments which is the chief objection to the company's franchise. The plan prescribed would measure the value of the South Shore Company's franchise as an exclusive grant to the only available route for an immense territory with unlimited promise as to future development for residence purposes.

a. In case the two companies interested cannot agree as to the amount of the initial payment, the matter is to be referred to three disinterested free-

holders, one to be chosen by each of the parties, and the third to be chosen by these two. The city, which is one of the principals in this contract, apparently is not to be represented in any way in the appraisal. If the South Shore Traction Company desired to prevent another company from coming in, it could bring about a deadlock by seeing to it that no third appraiser not entirely satisfactory to it could be agreed upon. The other company would have difficulty in enforcing the terms of this contract to which only the city and the South Shore Company are parties. Even if some way could be found ultimately to break the deadlock and complete the appraisal, the delay and difficulties which the South Shore Company could impose if it felt so disposed would be a serious hindrance to any new company which would have to depend on the city for any affirmative litigation to force the matter through.

Inasmuch as the city is a party to this contract and represents the public interest which should be paramount in any matter affecting the future development of the transit system, the simple solution of the appraisal problem in a case of this kind would be to give the appointment of the third appraiser to the city or to some other authority representing the state.

b. In case the appraisal scheme is carried through, it will apply only to the initial lump sum to be paid by the new company before it will have the right to run a single car on the South Shore Company's tracks. The appraisers are not required to fix on a sum that will be fair or reasonable, but are required in fixing the amount of the payment to "consider compensation to the Company for" certain specific things, as follows:

First, the sinking fund which may have been or should have been set aside for the retirement of the total investment represented by such property of the Company as is used by said individual or corporation, from the date of the granting of this franchise to the date upon which said individual or corporation begins the use of such property of the Company;

Second, the moneys expended by the company in its organization and promotion;

Third, the increased value of the territory as a district suitable for railway operation, which increase may have resulted from the operation of the company;

Fourth, the loss of business to the company which may result from direct competition on its own lines;

Fifth, any other purpose or purposes which the appraisers may deem as justly due to said company by such individual or corporation for the use of such property.

It is claimed that the appraisers are only required to "consider" these items and are not required in making the award to assign full value to them. While it is doubtless true that appraisers, if biased against the South Shore Company, could underestimate the value of some or all of these bases of compensation, and in the absence of proof of fraud their award would stand, it would be the height of folly, however, to approve this franchise on the strength of the most unfavorable award that could possibly be made to the South Shore Traction Company. We must rather consider the most favorable award that would be likely to be made to the company assuming that the city would exercise all due diligence in protecting the public interests in ways left open to it by the terms of its contract. The word "consider" in con-

nection with an appraisal has a legal meaning different from the loose meaning of ordinary conversational use. The directions of the contract are for the appraisers to base their figures on the specified elements, and they may not legally go outside of them. If they do, their determination will be set aside. If they adhere to the specified basis it will be upheld even if the lump sum should be greater than the entire cost of the tracks on Hoffman Boulevard and Thomson Avenue.

The practical fairness or reasonableness of the total award as related to the physical value of the tracks is not a matter with which they have anything to do. They are required to determine the amount of the payment to be made on the basis of the consideration of certain items now specifically agreed upon by the parties to the contract, together with such additional, unenumerated items of compensation as the appraisers may deem "justly due" to the South Shore Company for sharing the use of its privileges with another company. In the normal course of events, following the words of the contract and the usual legal procedure, the appraisers would proceed to set a value upon these items submitted to them without any reference to the magnitude of the sum total arrived at.

It is claimed that all the items enumerated are fairly and justly due to the pioneer company which builds a railway through this undeveloped territory. In other words, it is practically admitted that the fairness of the arrangement is a matter to be determined now in this contract; not one that is to be left for the appraisers. We should not be so deeply concerned with this issue if this company's route were not practically an exclusive one, or if adequate provision were made in the contract to require this company to build extensions and feeders along its route as the exigencies of the public may from time to time require.

The exclusiveness of the route has already been discussed. In regard to the other point, it is claimed that we can depend upon the self-interest of the company to bring about all necessary extensions as needed. This claim is not supported either by sound theory or practical experience in New York or elsewhere. We should not forget that the only reason for this company's application for a franchise in the Borough of Queens in the first place was that none of the companies already in the field were willing to make the desired extension except on their own terms. What the New York and Queens County Railway Company now refuses to do, the South Shore Traction Company could, with aggravated effect, refuse to do under this franchise. Indeed, if the company should recognize the advantage of extensions and feeders at some future time, its exclusive hold on Hoffman Boulevard and Thomson Avenue would prompt it to supply only the most remunerative fields, and neglect or save up for an indefinite future the others. Wherever the five-cent fare would be unprofitable, and wherever people could be induced to pay a double fare rather than walk, the company would naturally follow the example so often set in this city and organize nominally independent companies to make the extensions. Indeed, while the applicant company would under its franchise have a practical monopoly of the only thoroughfare leading through its territory to the Queensboro Bridge for a period of fifty years, there is nothing in its contract to prevent it from refusing to operate over the bridge after the expiration of ten years. In that case the people who have built their homes along this company's route would have to pay

a double fare to Manhattan, the same as the people who live along the lines of the New York and Queens County Railway Company will be compelled to do until that company sees fit to undertake a bridge service. It appears, therefore, that it would be unreasonable to depend on this company's self-interest for a proper extension of its lines.

We are forced to fall back, therefore, on the city's reserved right to let other companies in on this company's main route on the terms set forth in this franchise. It should be borne in mind that the items of appraisal are for the initial payment. Every expense chargeable to the use of this company's tracks and physical property is more than provided for in the annual payments required, to which I shall call attention further on. Among the items to be paid for in advance are "the increased value of the territory as a district suitable for railway operation, which increase may have resulted from the operation of the company" and "the loss of business to the company which may result from direct competition on its own line." Under these conditions if, at the end of ten years, a new company applied for trackage rights, the appraisers would have to base their determination upon the value of the "territory" and the "loss of business" for forty years to come in ascertaining the amount to be paid by the new company in advance.

It is of course proper that a pioneer company entering an undeveloped field should be protected from the possibility of other companies coming in without compensation at some future date, using this company's property and reaping a rich reward without risk or expense. It is wholly improper, however, that any company should be permitted to take advantage of a geographical situation to absorb the value resulting from the development of an immense tract in the heart of a great city for a period of fifty years. We think that the time has passed when the cities of this state, even to obtain a premature advantage of a low fare or to encourage sales of vacant real estate, should contract away the welfare of future generations. The requirements of justice could have been met by a more simple provision, to the effect that any new company desiring trackage rights over the applicant company's route should be required to pay a fair sum to be determined by arbitration, the city to be represented by the appointment of the third arbitrator. The right of the company in possession could be safeguarded by a provision that this sum should not be less than a certain fraction of the then value to the company of the trackage within its streets. The franchise contract now before us might justify a charge of several times the entire value of the trackage.

c. In the paragraph of the franchise contract describing the elements which shall enter into the annual rental to be paid by the new company for the use of the applicant company's tracks, it is provided that the new company shall pay the actual cost of motive power used by it, its fair proportion of the cost of keeping the tracks and electrical equipment in repair, and of laying and repairing pavements and removing snow and ice, and of all other expenses of maintenance and operation incurred by the South Shore Company under the terms of the contract with the city, and interest on a fair proportion of the original cost of construction together with additions and betterments, and shall also furnish its proportion of the capital required for future additions and betterments. This means that the new company after meeting all legitimate rental charges would have to pay annual interest to the old

company on that portion of the trackage cost for which it had already made the initial payment.

It has been suggested that, after all, the exclusiveness of the company's right in Hoffman Boulevard and Thomson Avenue is not so serious, because the lines of travel through the territory served lie in part in other directions. That is true. But this route is the one that strikes directly through the center of Queens to the heart of Manhattan by way of the great bridge that, because of its peculiar location and the service it is expected to perform, has been named "Queensboro." As time goes on the business district of Manhattan will move further up the island and the usefulness of this route will constantly increase. The Pennsylvania Tunnels will be for the exclusive use of trains operated over a private right of way. The Steinway Tunnel is now private property and unless purchased by the city will doubtless be used by the New York and Queens County Railway Company or be operated by a separate company for a separate fare. The Queensboro Bridge stands out as the principal public gateway of the future from Queens to Manhattan.

There are other provisions in the franchise contract which can be justly criticized. There appears to be no adequate guarantee that the road on Hoffman Boulevard will be built promptly or the franchise forfeited for failure to build. There is no provision for extensions. Provisions are inserted which are in conflict with the requirements of the Public Service Commissions Law and which, if approved by the Commission, can only be rendered harmonious with the existence of that law by assuming that so long as that law exists it supersedes the contractual provisions of the franchise. I prefer, however, not to make objections here to these minor features, but to base this refusal on those considerations which I consider a *sine qua non* to the approval of this franchise by the Commission. The duty of the Commission to disapprove arises when provisions are inserted that are sure to embarrass the future and impair the objects of the Public Service Commissions Law. It should not be the aim of such a franchise to obtain the greatest possible payments to the city or impose the greatest possible burden upon the company. To do these things is usually to prevent the company from rendering proper service to the people. In the case of the franchise now before us I think that the financial burdens imposed upon the company might well be mitigated and the rendition of good service together with the construction of needed extensions made more readily obtainable.

Ordinarily the necessary consents of abutting owners are filed with the Commission before its permission and approval are granted. Although this is not necessary under the law we consider it desirable, inasmuch as the Commission can thus make reasonably sure that the law is in all respects complied with before construction begins. The applicant has not yet obtained these consents and cannot begin construction until they are obtained. While it is procuring them, or in lieu thereof the consent of the Appellate Division, the present franchise can probably be modified.

The application of the South Shore Traction Company for permission and approval under section 53 of the Public Service Commissions Law for the construction of its road and the exercises of its franchise should be denied.

Commissioner McCarroll in voting in the negative submitted the following memorandum:

COMMISSIONER MCCARBOLL:—

I have examined closely the franchise as proposed by the Board of Estimate and Apportionment. While to a certain extent the provisions of the Public Service Commissions Law, regard to which should properly have been had, are noticeably overlooked, yet as the requirements of that law, so far as applicable, are nevertheless effective, the franchise seems to have been drawn with much care and provision for the protection of the interests of the city and the public. From that standpoint it is to be commended, and I believe should be approved for the following reasons, among others:

First: It is by law and justice the right and the power of the city to decide upon the terms on which it will grant a franchise to a street railway company.

Unless it can be shown that in some feature or features the interests of the city, or of the public, are invaded or imperiled, it is the duty of the Public Service Commission to approve.

Anything else, in my opinion, violates the city's legal rights and the principle of "home rule."

In the case of the South Shore Company, the franchise terms do, as stated, most carefully protect the city's interests. Indeed, they might be said to be ultra-favorable in some particulars, but that is a matter between the city and the company. There is no condition now existing, nor at present any to be foreseen, which is not safeguarded to the public and the city.

Second: Admitting for the sake of argument the contention which is the basis of the opinion that some difficulty is not beyond the bounds of possibility in connection with arranging terms for operation over the tracks of the South Shore Company by some other which might at a later time receive a franchise from the city, it is to be said that that is at most only a contingency, barely possible, but most remote. To bring even that situation within the bounds of possibility a strained and gratuitous interpretation of the plain provisions of the franchise must be made — so improbable and intangible as to be negligible as a practical matter. No objection of complications for which there is no substantial basis and of which there is no reasonable ground for apprehension can justify disapproval of a franchise in which there is no other and existing objection.

Third: Even did the conditions arise, which are apprehended and set forth in the opinion, the provisions for appraisal and the conditions upon which such appraisal is to be made are proper and adequate. There is no reason or justice in assuming that the appraisers provided for in the franchise, in the case of the differences contemplated arising, would arrive at any other than a just determination; but that assumption is the basis of the opinion. On the contrary, provision for a just determination, in the case of such differences, by disinterested appraisers is to be commended. It is an ordinary and desirable means of procedure between parties in business matters.

Fourth: It is the duty of this Commission to encourage, and by all proper means promote, the establishment and development of transit facilities and to clear the way rather than to raise obstacles.

The need for this railroad in the Borough of Queens is urgent and in the interests of the public it should be constructed at the earliest possible moment, and only tangible and potent reasons can justify the disapproval by this Commission of the city's action with the delay incident thereto.

The Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of the SOUTH SHORE TRACTION COMPANY for the permission and approval of this Commission, pursuant to the provisions of section 53 of the Public Service Commissions Law, to the construction and exercise of the franchise to operate an extension of its street surface railroad through the Borough of Queens, City of New York.</p>	<p>Case No. 1032 Order Denying Application June 8, 1909.</p>
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The South Shore Traction Company having made application to the Public Service Commission for the First District by a petition duly verified and filed, pursuant to the provisions of section 53 of the Public Service Commissions Law, and accompanied by the documents required by the rules of practice of the Commission, for the permission and approval of the Commission to the construction and exercise of the franchise to operate an extension of its street surface railroad upon the route therein described, said route being substantially as follows:

Beginning at the present western terminal point of said company's line, namely, at the intersection of Central Avenue with the city line; thence in a general southerly and westerly direction through Jamaica; and thence following the general line of Hoffman Boulevard and Thomson Avenue to the Queensboro Bridge Plaza in Long Island City; and thence across said Queensboro Bridge; a detailed statement of the streets, avenues and highways through which it is proposed to construct and operate such extension being included in said application.

And the Commission having fixed Tuesday, January 19, 1909, at 2:30 o'clock P. M. at the office of the Commission, at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing, containing a description of the route in and upon which the company proposes to construct and operate the said extension, be published in certain newspapers and at certain times specified by the Commission; and said hearing having been had by and before the Commission at the place aforesaid on January 18, 1909, January 26, 1909, May 20, 1909, and May 24, 1909, Commissioner Bassett presiding, Clarence Lexow, Esq., and Arthur C. Hume, Esq., attorneys, appearing for said South Shore Traction Company, and presenting proof of publication of notice of such application and hearing as required by the Commission; and testimony having been taken upon said hearing; and the Commission having determined that the exercise of the franchise upon the terms and conditions imposed in the franchise contract is not convenient for the public service,

Now, therefore, it is

Ordered: That the said application of the South Shore Traction Company be and the same hereby is denied.

The company made application to the Commission for a rehearing, under section 53 of the Public Service Commissions Law.

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Thereupon the Commission on June 15, 1909, directed that a rehearing be had. A hearing was held on June 16, 1909. Thereafter, the Commission issued the following order:

CASE No. 1032, ORDER DENYING PETITION FOR ABROGATION OF FINAL ORDER.
(June 18, 1909.)

The South Shore Traction Company having duly made application to the Public Service Commission for the First District, pursuant to the provisions of section 53 of the Public Service Commissions Law, for the permission and approval of the Commission to the construction and exercise of the franchise to operate an extension of its street surface railroad upon the route therein described, said route being substantially as follows: Beginning at the present western terminal point of said company's line, namely, at the intersection of Central Avenue with the City Line; thence in a general southerly and westerly direction through Jamaica; and thence following the general line of Hoffman Boulevard and Thomson Avenue to the Queensboro Bridge Plaza in Long Island City; and thence across said Queensboro Bridge; a detailed statement of the streets, avenues and highways through which it is proposed to construct and operate such extension being included in said application.

And a hearing having been duly held upon said application by and before the Commission on January 19th, January 26th, May 20th and May 24, 1909, Commissioner Bassett presiding, at the close of which and on or about the 8th day of June, 1909, the Commission made and served an order denying said application; and said Company having made application to the Commission by petition dated June 14, 1909, for a rehearing in respect to the matters determined in said order of June 8, 1909, and said application having been granted; and a rehearing having been had in respect thereto on June 16, 1909, before the Commission, Clarence Lexow, Esq., attorney, appearing for said South Shore Traction Company; and the Commission being of the opinion after such rehearing and after a consideration of the facts, including those arising since the making of the original order of June 8, 1909, above mentioned, that said original order is not in whole or in part in any respect unjust or unwarranted and that the same should not be abrogated, changed or modified,

Now, therefore, it is

Ordered: That the petition of the Company that the final order herein, dated June 8, 1909, be abrogated, be and the same hereby is denied.

CASE No. 1032, ORDER GRANTING APPLICATION.
(November 12, 1909.)

The South Shore Traction Company having duly made application to the Public Service Commission for the First District for the permission and approval of the Commission, pursuant to the provisions of section 53 of the Public Service Commissions Law, to the construction and exercise of the franchise to operate an extension of its street surface railroad upon the route therein described, said route being substantially as follows: Beginning at the present western terminal point of said company's lines, namely, at the intersection of Central Avenue with the City Line; thence in a general

southerly and westerly direction through Jamaica; thence following the general line of Hoffman Boulevard and Thomson Avenue to the Queensboro Bridge Plaza in Long Island City; and thence across said Queensboro Bridge; a detailed statement of the streets, avenues and highways through which it is proposed to construct and operate such extension being included in said application.

And a hearing and rehearing having been duly had upon said application, and said application having been denied; and thereafter such proceedings by certiorari having been had in the courts that an order of the Appellate Division of the Supreme Court, First Department, was duly made and entered annulling the determination of the Commission and directing and requiring the Commission to grant the certificate or order of permission or approval provided in section 53 of the Public Service Commissions Law and permit and approve of the exercise by said company of the public consent or contract or franchise right granted to said company by the Board of Estimate and Apportionment of the City of New York, bearing date May 20, 1909, which order has been duly affirmed by the Court of Appeals of the State of New York;

Now, therefore, it is

Ordered: That the permission and approval of the Public Service Commission for the First District be and is hereby granted to the South Shore Traction Company to construct and operate an extension of said company's line and to exercise the franchise aforesaid upon the route described in said consent of the City of New York bearing date the 20th day of May, 1909.

Third Avenue Railroad Company.— Application for approval of construction of an extension on Fort George Avenue, Borough of Manhattan.

Case No. 1086

Hearing Order

Opinion of the Commission

Order amending approval order

The company, on March 5, 1909, petitioned the Commission, under section 53 of the Public Service Commissions Law, for permission and approval of the construction of an extension of its railroad on Fort George Avenue, Borough of Manhattan. The Commission, on March 12th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition March 17th. Hearings were held on March 19th and 23d.

OPINION OF THE COMMISSION.

(Adopted March 26, 1909.)

COMMISSIONER MALTBY:—

This is an application under section 53 of the Public Service Commissions Law for permission to begin the construction of an extension to the Third

Avenue Railroad at Fort George. The statute provides not only that no extension shall be constructed without the permission and approval of the Public Service Commission but also that no corporation shall exercise any franchise or right not heretofore lawfully exercised without first having obtained a proper certificate. The application is made by Mr. F. W. Whitridge, receiver of the Third Avenue Railroad Company, and relates to two-thirds of a mile of single track, including a small loop of a few hundred feet at the end to permit the continuous operation of cars by avoiding the necessity of reversing them at a crossover.

The Third Avenue Company had no franchise for this extension until a few days ago, the franchise being signed by the Mayor upon March 4th. In December, 1908, the Commission was informed that work was to be begun on this extension before the franchise was granted by the city and before it had been approved by this Commission. The receiver was notified that such action would be illegal and that construction should not be begun until a franchise and the proper certificates had been obtained as provided for by law. The receiver then asked for a temporary permit pending the passage of the franchise and its approval by this Commission, to which the Commission replied that it had no authority to issue such a permit pending approval, and that until the franchise had been granted it would be impossible and inadvisable to consider an application for approval of a franchise the provisions of which had not yet been fixed by the city.

In the opinion of the Commission, it is not only a violation of law to begin work under such circumstances, but it is most inadvisable that lines should be constructed without due legal authority. There are lines in Manhattan and Brooklyn the building of which was permitted by the city under temporary permits before the franchises were granted, the corporations having promised to get franchises and to make the terms retroactive. But once having built the line and once having started operation, all interest in securing the proper legal authority waned, and to-day those lines are operated without a franchise and without paying the amounts required by law. Certain corporations in this city admit that they never received a formal grant of authority to operate in certain areas, but having operated there several years without disturbance, they now insist that they have a perpetual franchise obtained by "acquiescence." If there is any foundation for such a theory, and the decisions of the courts seem to indicate that some weight may be given to it, how much more plausible would be the argument that a city which allows a company to construct under a "temporary permit" and to operate for months and years has thereby and by refusal to interfere with such operation given to the corporation valuable franchise rights. One corporation in this city recently went so far as to embed rails in concrete on its tracks to prevent another corporation from laying tracks across its line without due notice and without compliance with law, for fear that if the corporation which was planning to seize the crossing was once able to lay its tracks, it would be impossible to have them removed.

The application for approval under section 53 above referred to was first made by the receiver in due form under date of March 5th, 1909. The Commission promptly fixed a date for a hearing upon March 19th, thereby allowing the usual ten days for publication of notices of such hearing. The hearing was held as ordered upon March 19, at which time the representative of the

receiver proceeded to present evidence. The first witness, the chief engineer to the receiver, in response to certain questions, testified that construction work had been begun a month before the franchise was signed by the Mayor and that work was actually under way upon the date of the hearing. In view of the manifest illegality of such action, the hearing was adjourned. The Commission then directed its counsel to proceed with an action for violation of law, and notified the receiver that the Commission would not proceed with the hearing until it had received assurance that the work upon the extension had been suspended and would remain suspended until a certificate had been issued as required by law. Work having been stopped upon receipt of this notice and the required assurance having been given, the hearing was resumed upon March 23d, and the order issued upon March 26th — less than three weeks from the date when the application was made.

An examination of the franchise reveals some rather peculiar provisions. The grant may be terminated by the city any time after March 4th, 1912, subject to a possible extension at the option of the city for two years more. This will mean that the entire cost of this line must be amortized in three years; that is, practically one-third of the cost must be set aside out of earnings each year. As this is a short extension the amount will not be large, but if the principle were to be applied to a long extension or to a large system, it would probably be impossible for the road to be operated under such a condition. If it were to be operated, the public would be injured by high fares or poor service or both. It is to be remembered that unreasonable burdens placed on corporations are usually shifted to the travelling public, and that it is more in the public interest that service should be good and fares kept down than that the corporation should be made to bear a heavy burden.

The franchise further provides that the company shall permit the joint use of its track and equipment by other street railway companies which shall have been given such rights by the city, upon payment of an annual sum, which shall not exceed the following:

1. Legal interest on a proportion of the whole cost of construction.
2. Legal interest on a proportion of the cost of keeping the tracks and track equipment in repair. (The proportion in 1 and 2 is to be the same as the proportion between the number of cars operated by the new company and the number of cars operated by all other companies using the extension.)
3. The actual cost of the power necessary for the operation of the new company's cars on the extension.
4. The cost of laying and repairing the pavement.
5. The cost of removal of snow and ice.
6. The cost of all other duties imposed upon the Third Avenue Company by the terms of this contract in connection with the maintenance or the operation of the railway so used.

Apparently the capitalization of charges for maintenance and repairs would be permitted — a plan which is not considered proper by this Commission and not allowed under the system of accounts prescribed for street railways.

The franchise contains a number of clauses which are unnecessary or in conflict with the theory of the Public Service Commissions Law. For example, it states that cars shall be "run * * * as may be directed by the Board" of

Estimate and Apportionment, and that all cars are to be "lighted * * * as may be required by the Board". The fiscal year is made to end September 30th, and the company is required to submit a report to the Board of Estimate, giving many important statistical and financial facts regarding its operations for this year. The company is required to comply with the provisions of the Railroad Law and of the laws or ordinances "not inconsistent with the terms and conditions" fixed in the franchise.

It is indisputable that no franchise or contract entered into by a local authority and a corporation can set aside, annul or alter any state law or order of a state body. Consequently, any order made by this Commission relative to the matters that have been placed under its jurisdiction must be binding upon the corporation affected, notwithstanding any provision in any franchise. Any attempt to confer by franchise such authority upon another body is doubtless *ultra vires* in so far as it attempts to supersede state law or orders of this Commission, and provisions purporting to do so ought not to be in any franchise.

Furthermore, as the law has fixed June 30th as the end of the fiscal year and as exhaustive reports must be made to this Commission for such period, containing all of the information called for in the franchise, it would seem to impose an unnecessary burden upon the corporation to require it to make a report for a year ending September 30th.

In view of the fact that the construction of the proposed extension will not only be of advantage to the Third Avenue Company from an operating point of view but will also be of convenience to the public, and probably will tend to reduce accidents and to provide a more rational operation of cars at this point where there is so much congestion during the summer months, these objectionable features of the franchise have not been considered of sufficient importance to warrant the withholding of a certificate and one has been issued; but future franchises submitted for approval should not contain similar provisions.

Thereupon the Commission issued the following order:

<p>In the Matter of the Application of THE THIRD AVENUE RAILROAD COMPANY for the permission and approval of this Commission to the construction and operation of an extension of the street surface railroad on Fort George Avenue, Borough of Manhattan, City of New York.</p>

<p>Case No. 1086 Order Granting Application March 26, 1909.</p>

The Third Avenue Railroad Company having made application to the Public Service Commission for the First District by a petition, duly verified and filed, and accompanied by the documents required by the rules of practice of the Commission for the permission and approval of the Commission to the construction and operation of an extension of its street surface railroad upon the route described in its statement of proposed extension duly filed pursuant to section 90 of the Railroad Law with the Secretary of State and with the county clerk of New York county, and in the franchise granted to said com-

pany by the City of New York under date of March 4, 1909, and being in the Borough of Manhattan, City of New York, a full description of said route being hereinafter set forth;

And the Commission having fixed Friday, March 19, 1909, at 2:30 o'clock in the afternoon, at the office of the Commission at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing containing a description of the route in and upon which the company proposes to construct and operate said extension, be published in certain newspapers and at certain times specified by the Commission, and said hearing having been had by and before the Commission at the place aforesaid on March 19, 1909, and on March 23, 1909, Commissioner Maltbie presiding; and the said applicant, The Third Avenue Railroad Company, having appeared upon said hearing by Henry A. Robinson, its counsel, and having presented proof of publication of notice of such application and hearing, as required by the Commission, and having presented its proofs, whereby it satisfied the Commission that the construction and operation of said extension is necessary and convenient for the public service; and the Commission having determined, after said hearing, that the construction and operation of the extension of said company's road, as described in the statement of proposed extension thereof, filed with the Secretary of State and with the county clerk of New York county, and as described in said franchise, is necessary and convenient for the public service; now, therefore, it is

Ordered, That said application be and the same hereby is granted; that the permission and approval of the Public Service Commission for the First District is hereby granted to the construction and operation by The Third Avenue Railroad Company of the extension of said company's line upon the route and as described in its statement of proposed extension, duly filed with the Secretary of State and with the county clerk of New York county, and as described in said franchise, as aforesaid, said route being described in said statement and in said franchise as follows:

"Beginning and connecting with the existing double-track street surface railway on Amsterdam Avenue, at or near the intersection of said avenue with Fort George Avenue; thence northerly, westerly and southerly in, upon and along said Fort George Avenue as it winds and turns, to its intersection with Audubon Avenue, with a loop terminal at said intersection, to be constructed within the present roadway of said Fort George Avenue."

The permission and approval hereby granted shall not be construed as an approval by the Commission of the contract regarding said proposed extension entered into between said company by Frederick W. Whitridge, receiver, on the one hand, and the City of New York on the other hand, dated March 4, 1909, except as to the grant of the right to construct and operate an extension of said company's line over the route above described. It is further

Ordered, That this order shall take effect immediately, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

The company made application for an amendment of the foregoing order, whereupon the Commission issued the following order:

110 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

CASE No. 1086, AMENDED ORDER GRANTING APPLICATION.

(April 9, 1909.)

WHEREAS: An order was duly made on the 26th day of March, 1909, in the above entitled matter granting to The Third Avenue Railroad Company the permission and approval of the Commission to the construction and operation of an extension of its line on Fort George Avenue in the Borough of Manhattan, City of New York, said order containing the following clause:

"It is further ordered, That this order shall take effect immediately, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order;" and

WHEREAS: Application has been made by the said Railroad Company to the Commission to amend and re-enter the said order, omitting the said clause, and it appears to the Commission that the request is reasonable and should be granted,

Now, therefore,

Resolved, That the said order be and the same hereby is amended and modified *nunc pro tunc* as of the 26th day of March, 1909, so as to read as follows:

CASE No 1086, ORDER GRANTING APPLICATION.

The Third Avenue Railroad Company having made application to the Public Service Commission for the First District by a petition, duly verified and filed, and accompanied by the documents required by the rules of practice of the Commission for the permission and approval of the Commission to the construction and operation of an extension of its street surface railroad upon the route described in its statement of proposed extension duly filed pursuant to section 90 of the Railroad Law with the Secretary of State and with the County Clerk of New York County, and in the franchise granted to said company by the city of New York under date of March 4, 1909, and being in the Borough of Manhattan, City of New York, a full description of said route being hereinafter set forth;

And the Commission having fixed Friday, March 19, 1909, at 2:30 o'clock in the afternoon, at the office of the Commission at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing containing a description of the route in and upon which the company proposes to construct and operate said extension, be published in certain newspapers and at certain times specified by the Commission, and said hearing having been had by and before the Commission at the place aforesaid on March 19, 1909, and on March 23, 1909, Commissioner Maltbie presiding; and the said applicant, The Third Avenue Railroad Company, having appeared upon said hearing by Henry A. Robinson, its Counsel, and having presented proof of publication of notice of such application and hearing, as required by the Commission, and having presented its proofs, whereby it satisfied the Commission that the construction and operation of said extension is necessary and convenient for the public service; and the Commission having determined, after said hearing, that the construction and operation of the extension of said company's road, as described in the statement of proposed extension thereof, filed with the Secretary of State and with the County Clerk of New York County,

and as described in said franchise, is necessary and convenient for the public service; now, therefore, it is

Ordered: That said application be and the same hereby is granted; that the permission and approval of the Public Service Commission for the First District is hereby granted to the construction and operation by The Third Avenue Railroad Company of the extension of said company's line upon the route and as described in its statement of proposed extension, duly filed with the Secretary of State and with the County Clerk of New York County, and as described in said franchise, as aforesaid, said route being described in said statement and in said franchise as follows:

"Beginning and connecting with the existing double-track street surface railway on Amsterdam Avenue, at or near the intersection of said avenue with Fort George Avenue; thence northerly, westerly and southerly in, upon and along said Fort George Avenue as it winds and turns, to its intersection with Audubon Avenue, with a loop terminal at said intersection, to be constructed within the present roadway of said Fort George Avenue."

The permission and approval hereby granted shall not be construed as an approval by the Commission of the contract regarding said proposed extension entered into between said company by Frederick W. Whitridge, Receiver, on the one hand, and the City of New York on the other hand, dated March 4, 1909, except as to the grant of the right to construct and operate an extension of said company's line over the route above described.

Union Railway Company of New York City.—Application for permission and approval of construction and operation of extension of road.

Case No. 1085

Hearing Order

Order amending hearing order

Opinion of the Commission

Supplemental opinion of the Commission

Approval Order

The company, on March 5, 1909, petitioned the Commission, under section 53 of the Public Service Commissions Law, for permission and approval of the construction and operation of an extension of its road on Pelham Avenue, Borough of The Bronx. The Commission, on March 12, 1909, directed (see blank form of hearing order, page 9) that a hearing be had March 25th on said petition, and that the company publish due notice thereof. It appearing that the papers in which notice of the hearing was directed to be published were weekly newspapers and, therefore,

notice could not be published within the time mentioned in the original order for hearing, the Commission on March 16th issued an amendatory order directing that the hearing be held on said date, but providing for publication in daily papers in order that the requisite publications could be made. The hearing was held March 25, 1909.

OPINION OF THE COMMISSION.

(Adopted April 2, 1909.)

COMMISSIONER EUSTIS:—

This is an application made by Frederick W. Whitridge, Receiver of the Union Railway Company, under section 53 of the Public Service Commissions Law, for permission and approval by the Commission of the franchise for the construction of an extension of said company's railroad on Pelham Avenue from the junction of Pelham and Third Avenues to the Southern Boulevard.

Application for this franchise was made by the Union Railway Company to the Board of Estimate and Apportionment in July last, and on March 1, 1909, the contract between the City and the Union Railway Company was executed; and, under date of March 5, 1909, application was made to this Commission for the approval and consent of this Commission to the construction of said extension.

A hearing was fixed and duly advertised for March 25, 1909, at which date testimony was taken showing that there was no opposition to the granting of the certificate from outside parties; and testimony was produced by the applicant showing that there was a necessity for the construction of this road, and that it would be a convenience to a large number of the traveling public, the evidence being given by various property owners, who owned real estate along Pelham Avenue between Third Avenue and the Southern Boulevard.

The terms of the franchise are similar to the franchise submitted by the Bronx Traction Company for the Classon Point Road, upon the application for which this Commission issued a certificate with certain qualifications in regard to some of the clauses in the franchise; and it would seem to me that the present time is opportune to call a halt until these objectionable features in the franchise can be corrected.

The term of the franchise is fifteen years, and the compensation to be paid to the city is fixed at a certain rate during each period of five years of said term, and then provides for a renewal of said franchise for a further term of twenty years, compensation for said renewal to be agreed upon by a revaluation; and provides that, if the two parties (that is the city and the railroad) do not reach an agreement as to the compensation for the renewal term before the beginning of the last year of the original term, then the rate of compensation for said renewal term shall be fixed by three disinterested appraisers — one appointed by the city, one by the company, and the third by these two; and that the valuation fixed by the said appraisers shall be conclusive on both parties, but in no event shall the annual sum to be paid be less than the sum required to be paid for the last year of the original contract. In case this franchise should become very valuable at the end of fifteen years, and the railroad company on a revaluation would be obliged to pay a very considerable

increased annual sum to the city, all they would have to do to avoid paying that increased sum would be for them to appoint an appraiser who would not agree with the appraiser appointed by the city on the third appraiser, then nothing could be done towards adjusting the revaluation on which they would be required to pay the annual charges to the city, and they could go on during the next twenty years paying only the sum fixed for the last year under the original term. This, certainly, should be corrected, and there should be a provision in this section of the franchise providing for the appointment of the third appraiser by some outside disinterested body, in case the two appraisers do not agree upon a third within a limited time.

The franchise further provides (paragraphs 14 to 18) that the adequacy of the service rendered by the company, as well as the heating and lighting of the cars, is subject to the orders of the Board of Estimate and Apportionment; and, inasmuch as section 3 of paragraph 24 of the said franchise specifically states

"This grant is also upon the further and express condition that the provisions of the Railroad Law applicable thereto, and all laws or ordinances now in force, or which may be adopted, affecting the surface railways operated in the city, not inconsistent with the terms and conditions hereinbefore fixed, shall be strictly complied with by the company"

it might give the company the right, when this Commission undertook to exercise its powers under the Public Service Commissions Law in regard to their operation or equipment, to say that this Commission in approving this franchise had waived its rights, and they might claim that the Public Service Commissions Law was inconsistent with this franchise insofar as the franchise clothes the Board of Estimate and Apportionment with the power of passing upon the equipment and the service to be rendered by the company.

These paragraphs should be either eliminated or modified so as to expressly show that there is no intention by the parties to this franchise of annulling or abridging in any way the duties of the Public Service Commission under the existing law.

The franchise contains a condition precedent before the company can exercise the rights intended to be conveyed by the franchise, in these words:

"Before any *rights* hereby conferred *are exercised* by the company, and, within three months from the date on which this contract is signed by the mayor, the company shall pay to the City of New York the sum of \$20,385.08, and, within three months thereafter, the further sum of \$31,758.87; said amounts being due under the franchise of the company granted to it by the Legislature by chapter 340 of the Laws of 1892."

And it would appear unwise to approve of this franchise with that conditional clause until the company has met the demands therein provided for. *Non constat*, if approved by this Commission, within the three months within which the company is required to make the first payment, it might have the line built, and then fail to make the payment and go on and operate the line, and would duplicate some of the other situations that have been found to exist in the city where lines have been constructed under temporary permits pending the application for a franchise, and have continued their operation, and have not proceeded to obtain their franchise; it being very easy to see that, if they could avoid payment to the city of the franchise

obligations in the way of annual fees, they would be quite large gainers financially. And it would seem to me that the approval of this franchise should await the removal of this condition, by the payment by the company to the city of the amounts therein specified.

A further objection might be made to the approval of the franchise,—the fact that this company has not complied with the original order of this Commission for the filing of various papers; and the company's attention has been recently called to that fact by a letter from the Secretary, under date of March 13, 1909. To summarize, the papers desired are as follows:

1. Franchises from the Village of Williamsbridge.
2. Franchises from the Village of South Mount Vernon.
3. Franchise or permit authorizing construction in White Plains Road between Bear Swamp Road and Morris Park Avenue.
4. Franchise or permit for construction on Locust Avenue, Port Morris.
5. Trackage agreements with the New York & Harlem Railroad Company for use of tracks on Madison Avenue Bridge and on Madison Avenue.
6. Track agreements with the New York City Interborough Railway Company.
7. Track agreement and all other agreements for operation or equipment with the Southern Boulevard Railroad Company.
8. Detailed description of real estate held by Company, with certified copy of deeds for the various parcels.
9. Certificates of extension of route not included in documents already filed.
10. Certified copies of proceedings before the Board of Railroad Commissioners relative to change in motive power, not included in the "compilation" of 1894.
11. Location of all real property leased by the company.
12. Affidavits of employees that necessary property owners' consents have been secured in each case where necessary, stating whether or not the same have been filed in the county clerk's office.

At the hearing counsel for the company stated that they would furnish these various papers, but that it would take them about two weeks to do so. This feature need not be considered as serious objection, for the papers can doubtless be furnished before final action is taken.

There is still another objection to the approval of this franchise, which is of vital importance to a large part of the traveling public in The Bronx. The evidence produced at the hearing clearly showed that this road is intended to supply transportation facilities between the elevated and the Harlem Railroad station at Pelham and Third Avenues and the Southern Boulevard, being a very short distance, a place where a great many people travel on foot to enter the Zoological Gardens at Southern Boulevard and Pelham Avenue. At the time the application was made to the Board of Estimate and Apportionment for this franchise, an application was also made for a franchise from the intersection of its existing tracks at Sedgwick Avenue and Fordham Road, along Fordham Road, Hampton Place, West 184th Street, the University Heights Bridge to the Borough of Manhattan to West 207th Street, to Amsterdam or Tenth Avenue, to Emerson Street, and connecting

with the existing tracks on Broadway; and that application for a franchise was agreed to between the railroad company and the city, and the resolutions approving of said franchise were approved by the Mayor on December 21st, 1908; and the evidence produced upon the hearing on this application from the President of the Union Railway Company and the Manager for the Receiver of its operations was that it is his intention to operate the Pelham Avenue line at the present time as an extension of the Third Avenue line, which now operates between 129th Street and Bedford Park. The proposed new operation would be from 129th Street along Third Avenue to Pelham Avenue, and then at right angles over to the Southern Boulevard, and this line would no longer accommodate the Bedford Park travel. He also stated that it was his intention when the application was made for this extension, and also the extension over the University Heights Bridge underneath the subway at 207th Street and across to Broadway that, if both franchises were available, then the line would be operated as a crosstown line. This is what is demanded, as the section between the end of Pelham Avenue at Third Avenue and Sedgwick Avenue is a distance of not over three-quarters of a mile, upon which the Union Railway now has a double track, and that with the two extensions on Pelham Avenue and across University Heights Bridge constitute a crosstown line not over three miles in length.

It also appeared that while the bondholders were willing that the Receiver should execute the contract for Pelham Avenue extension, they were not willing that the Receiver should execute the contract for the extension from Sedgwick Avenue to Broadway in Manhattan. This extension, in connection with their existing line on Fordham Road and the Pelham Avenue extension, would give a crosstown line, which would intersect with the Kingsbridge surface line on Broadway in Manhattan, and with the Broadway line of the present subway, with the two New York Central lines at University Heights, with the New York City Interborough Railway Company's line at Aqueduct Avenue, and with the New York and Harlem line at Park Avenue, and with the Third Avenue elevated line at Third and Pelham Avenues, besides also intersecting other lines of the Union Railway at Third, Webster and Jerome Avenues.

I am very strong in my opinion that this Commission should not approve of the franchise for the Pelham Avenue extension to be operated as an extension of the Third Avenue line, and receive the large profits to be derived from carrying the large crowds of people that would go from Fordham Square to Southern Boulevard, a distance of only 2,900 feet, for a five cent fare, so long as it refuses to complete its obligation with the city for the other extension which leads over into Manhattan and is necessary to complete the proposed crosstown line.

I would, therefore, recommend that action upon this application be deferred until the franchise has been amended, as herein suggested, and until the company presents an application for the approval of the franchise for the extension from Sedgwick Avenue to Broadway in Manhattan over University Heights Bridge.

SUPPLEMENTAL OPINION.

COMMISSIONER EUSTIS:—

In my former opinion, reported to the Commission on April 2, 1909, I recommended that no action be taken until the franchise had been amended

and another application presented for the approval of another franchise leading from Sedgwick Avenue in The Bronx to Broadway in Manhattan, across University Heights Bridge. Since rendering that opinion I have had several interviews with the representatives of the parties in interest.

One of the serious objections made in the former opinion was of a condition contained in the franchise whereby the company was to pay to the City of New York two sums, one of \$20,385.08, and the other of \$31,758.87, before any rights conferred by the franchise were to be exercised by the company.

Frederick W. Whitridge, the Receiver of this company, has agreed, if action is taken upon his application, to eliminate this condition by paying to the city these amounts at once.

The other conditions of the franchise that are objectionable are those that relate to the regulation of the service of the company by the Board of Estimate, duties that are imposed upon this Commission by the Public Service Law, and can be overcome in this case as in the case of the Bronx Traction Company application for approval of franchise on Classon's Point Road by a reservation in the certificate.

I have been advised by our Franchise Bureau that the papers mentioned in my previous opinion as not having been filed with the Commission have since been received.

The remaining objection was the failure of the company to take from the city the other franchise granted at the same time, to complete this cross-town line.

I am satisfied now that it will be impossible for the Receiver to comply with that request. The bondholders of the line have refused to allow the Receiver the privilege of doing this, or furnishing the money, and without the approval of the bondholders the court would not sanction this expense by the Receiver, and I am assured by the Receiver himself that this part of the crosstown line will have to remain in abeyance until the reorganization of the company, which he thinks will certainly take place before the end of the present year. And, in view of the fact that the building of this line would to a certain extent serve some of the people that would be served by the complete crosstown line, and considering that the Receiver has the authority to build this line at the present time and the money provided therefor, it would, in my opinion, be unwise to longer defer action upon this application.

I would, therefore, recommend that, if the Receiver removes the conditional provisions in the franchise by producing to the Commission a receipt showing that he has paid the above mentioned sums to the City of New York, the application be granted, with the reservation that the full power of regulation over service and equipment of the company by this Commission is not in any way waived by such approval.

April 29, 1909.

At a meeting of the Commission held May 11th, Commissioner Eustis stated that he had received a communication from the Comptroller, dated May 11, 1909, stating that the Union Railway Company of the City of New York had transmitted to him the sum of \$52,143.95, the amount due under the franchise

granted to it by the legislature in 1892, as set forth in the contract between the city and the company, dated March 1, 1909.

The Commission issued the following order:

In the Matter
of the
Application of the UNION RAILWAY COMPANY OF NEW YORK CITY for the permission and approval of this Commission to the construction and operation of an extension of its street surface railroad on Pelham Avenue, Borough of The Bronx, City of New York.

Case No. 1085
Order Granting Application
May 16, 1909

The Union Railway Company of New York City having made application to the Public Service Commission for the First District by a petition duly verified and filed by Frederick W. Whitridge, Receiver, and accompanied by the documents required by the rules of practice of the Commission for the permission and approval of the Commission to the construction and operation of an extension of its street surface railroad upon the route described in its statement of proposed extension, duly filed pursuant to section 90 of the Railroad Law with the Secretary of State and with the County Clerk of New York County, the following being a description of the streets, roads avenues and highways in and upon which it is proposed to construct, maintain and operate such extension in the Borough of The Bronx, City of New York, namely:—

“Beginning at and connecting with the double track road now constructed on Third Avenue at the junction of Pelham Avenue, running thence easterly with double tracks in or upon and along the surface of Pelham Avenue to the Southern Boulevard, all in the Borough of The Bronx, in the City of New York.”

And the Commission having fixed Thursday, March 25, 1909, at 4 o'clock P. M., at the office of the Commission at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that a notice of said application and hearing, containing a description of the route in and upon which the company proposes to construct and operate the said extension, be published in certain newspapers and at certain times specified by the Commission; and said hearing having been had by and before the Commission at the time and place aforesaid, Commissioner Eustis presiding; and the said applicant, the Union Railway Company of New York City, having appeared upon said hearing by Henry A. Robinson, its Counsel, and having presented and filed with the Commission proof of publication of notice of such application and hearing, as required by the Commission, and having presented its allegations and made its proofs, whereby it satisfied the Commission that the construction and operation of said extension is necessary and convenient for the public service; and the Commission having determined after said hearing that the construction and operation of the extension of said company's road as described in the statement of proposed extension thereof, filed with the Secretary of State and with the County Clerk of New York County, is necessary and convenient for the public service;

Now, Therefore, it is

Ordered: That said application be and the same hereby is granted; and that the permission and approval of the Public Service Commission for the First District is hereby granted to the construction and operation by the Union Railway Company of New York City of the extension of said company's line upon the route and as described in its statement of proposed extension duly filed with the Secretary of State and with the County Clerk of New York County as aforesaid, said route being described in said statement as follows:—

“Beginning at and connecting with the double track road now constructed on Third Avenue at the junction of Pelham Avenue, running thence easterly with double tracks in or upon and along the surface of Pelham Avenue to the Southern Boulevard, all in the Borough of The Bronx, in the City of New York.”

Nothing herein contained shall be construed as an approval by the Commission of the contract regarding said proposed extension entered into between said company and the City of New York, dated March 1, 1909, except as to the grant of the right to construct and operate an extension of said company's line over the route above described and for and during the periods mentioned in said contract.

Application for Approval of Extension of Corporate Existence

Spuyten Duyvil and Port Morris Railroad Company.— Application for approval of extension of corporate existence.

Case No. 1141

Opinion of the Commission
Dismissal Order

OPINION OF THE COMMISSION.

(Adopted June 22, 1909.)

COMMISSIONER EUSTIS:—

The Spuyten Duyvil and Port Morris Railroad Company filed a petition with this Commission, dated May 3d, 1909, setting forth the fact that it was incorporated in 1867 for a period of ninety-nine years, and that with the consent of the stockholders a certificate has been executed extending the corporate life of said company for five hundred years, and asking for an order of this Commission permitting and approving of such extension.

This application is made under section 53 of the Public Service Commissions Law, on the theory that the approval of this Commission is required by the following provision of that section, to wit:

“nor, except as above provided in this section, shall any such corporation or common carrier exercise any franchise or right under any provision of the railroad law, or of any other law, not heretofore lawfully exercised, without first having obtained the permission and approval of the proper commission.”

Under section 37 of the General Corporation Law (Chapter 23 of the Consolidated Laws) any domestic corporation at any time before the expiration

thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, by the consent of stockholders duly secured, and upon filing a certificate under the seal of the corporation evidencing such consent in the office of the Secretary of State, and a certified copy of such certificate or a duplicate of the original thereof in the office of the Clerk of the County wherein the corporation has its principal place of business. In my opinion the steps taken pursuant to statute to extend the corporate existence of a company do not constitute the exercise of a franchise, right or privilege, within the meaning of section 53 of the Public Service Commissions Law. In that section the words "franchise or right," "franchise or privilege" and "franchise" are apparently used synonymously, and imply not merely the exercise of a simple corporate power but the continuous exercise of some particular franchise.

Under section 11 of the General Corporation Law as it now exists, a corporation has power to have a common seal and alter the same at pleasure; to acquire and dispose of property; to appoint officers and agents, and fix their compensation; and to make by-laws not inconsistent with existing laws. The very first general power enumerated in section 11 is the power "to have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified. It seems to me that the exercise of the power to extend its corporate existence is different only in degree and not in kind from the power to change its seal, or its property investments, or its officers, or its by-laws; in other words, that the right to extend its corporate existence is rather a power than a franchise.

The final sentence in section 53 of the Public Service Commissions Law is as follows:

"And if such construction is to be made or such franchise to be exercised in both districts, the approval of both commissions shall be secured."

If taking the steps provided by statute to extend its corporate existence constitutes the exercise of a franchise, it might follow that a corporation whose principal place of business was in the City of New York, and all of whose operations are there carried on, would require the approval of both commissions for the extension of its term of existence, for in every case the statutory certificate must be filed in the office of the Secretary of State, and in the case supposed a duplicate of certified copy would be filed in the office of the clerk of one of the counties constituting the City of New York.

The General Corporation Law does not specifically require in the case of a railroad the approval of any board to make the extension of its corporate existence complete; but express provision is made in section 39 of the General Corporation Law requiring the written approval of the Superintendent of Banks, or of the Superintendent of Insurance, or of Boards of Supervisors with respect to the extension of the corporate existence of banks, insurance corporations, or turnpike or bridge corporations. If the Legislature had intended to require any approval preliminary to the filing of certificates of extension by railroad corporations, it would have expressed such intent in passing the law.

In *Lord v. Equitable Life Assurance Society* (194 N. Y. 238), the Court of Appeals said:

"When the legislature authorizes a course of procedure whereby a charter may be acquired or amended, action in conformity thereto does not create the charter or make the amendment, but both come into existence through the operation of the statute. The amendment is the act of the legislature the same as the charter itself, and neither has existence except as conferred by statute."

Within this principle an extension of corporate existence procured by compliance with statutory procedure would seem to be an act of the legislature and not the exercise of a franchise, right or privilege by a corporation requiring the approval of this Commission.

For the reasons stated, I would therefore recommend that the application be dismissed.

Thereafter the Commission issued the following order:

<p style="text-align: center;">In the Matter of the Application of the SPUYTEN DUYVIL & PORT MORRIS RAILROAD COMPANY for leave to extend its corporate existence.</p>	<p>Case No. 1141 Dismissal Order August 3, 1909.</p>
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The Spuyten Duyvil and Port Morris Railroad Company having presented to this Commission its petition, dated May 3rd, 1909, praying that the Commission permit and approve the extension of its corporate existence for a period of five hundred years, and the opinion thereon of Mr. Commissioner Eustis having been filed, it is

Ordered: That the said application be and the same hereby is dismissed.

Application for Approval of Leases and Contracts

Canarsie Railroad Company and Brooklyn Union Elevated Railroad Company.— Application for approval of lease.

Case No. 1121

Hearing Order
Final Order

The companies, on June 18, 1909, petitioned the Commission for its approval of a contract of lease between the companies, whereby the Canarsie Railroad is leased to the Brooklyn Union Elevated Railroad Company from July 1, 1909, to July 1, 1910. The Commission, on June 22d, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on Au-

gust 10th. A hearing was held on August 10, 1909. Thereafter, the Commission issued the following final order:

<p style="text-align: center;">In the Matter of the Application for approval of the proposed contract between the CANARSIE RAILROAD COMPANY and the BROOKLYN UNION ELEVATED RAILROAD COMPANY.</p> <hr style="width: 20%; margin: auto;"/> <p style="text-align: center;">Lease of property.</p>	<p>Case No. 1121 Approval Order August 20, 1909.</p>
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WHEREAS: The Canarsie Railroad Company and the Brooklyn Union Elevated Railroad Company filed with the Public Service Commission for the First District an application, verified June 18, 1909, praying the approval of the Commission to the terms of the contract of lease of the Canarsie Railroad Company to the Brooklyn Union Elevated Railroad Company, which said proposed contract of lease is dated July 1, 1909; and

WHEREAS: The Public Service Commission for the First District did by order adopted June 22, 1909, direct the said application to be heard on the 10th day of August, 1909, at 2:30 o'clock in the afternoon, and the matter coming on to be heard on August 10, 1909, before Mr. Commissioner Bassett presiding, said applicants having appeared by A. M. Williams, Esq., and no one appearing in opposition, and the Commission having taken testimony and duly heard such application, it is

Ordered: That the application of the Canarsie Railroad Company and the Brooklyn Union Elevated Railroad Company for the approval by the Public Service Commission for the First District of the proposed contract of lease by which the said Canarsie Railroad Company is leased to the Brooklyn Union Elevated Railroad Company from July 1, 1909, to July 1, 1910, be and the same hereby is granted, and that the said contract of lease as submitted to the Public Service Commission for the First District be and the same hereby is in all respects approved.

Central Crosstown Railroad Company.—Application for approval of a modification of lease to the Metropolitan Street Railway Company.

Case No. 1132
Hearing Order
Opinion of the Commission
Final Order

The Central Crosstown Railroad Company, on July 1, 1909, petitioned the Commission for approval of a modification of its

lease to the Metropolitan Street Railway Company, dated February 8, 1904. The Commission, on July 13th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on August 6th, and that the company publish due notice thereof. Hearings were had on August 6th and subsequently until August 16, 1909.

OPINION OF THE COMMISSION.

(Adopted August 20, 1909.)

COMMISSIONER MALTBIE:—

Under an agreement entered into over a year ago between the Central Crosstown Railroad Company and the receivers of the Metropolitan Street Railway Company, the latter agreed to operate the lines of the Central Crosstown Railroad Company for one year and to pay certain amounts for this privilege. As a temporary agreement pending a reorganization of the street railway system of Manhattan, this lease was approved by this Commission.

Early in this year the receivers of the Metropolitan Street Railway Company informed the Central Crosstown Railroad Company that it would not continue to operate the lines of the latter company under the terms of the agreement made in 1908. A new agreement was thereupon prepared and assented to, and under the Public Service Commissions Law it now comes before the Commission for our approval. This agreement and the one made last year differ from the agreement in force prior to the appointment of receivers in that the receivers are released from the obligation to pay the Central Crosstown Railroad Company a dividend of fifteen per cent upon the outstanding capital stock, amounting to \$90,000 per year. The present lease differs from the one approved last year in that the receivers are further released from the obligation to pay the interest on the three-year notes of the Central Crosstown Railroad Company. These notes bear interest at 5 per cent and have a par value of \$2,250,000—a yearly charge of \$112,500. Under the proposed agreement the franchise tax is to be paid by the Central Crosstown Company and not by the lessees. The agreement is to continue in force until the close of the receivership of the Metropolitan Street Railway Company and may be canceled at an earlier date by either party upon thirty days' notice.

Compared with the agreement approved a year ago the proposed arrangement reduces the rental paid by the receivers of the Metropolitan Street Railway Company approximately \$120,000. As the rental under the agreement approved last year was \$90,000 less than the agreement in effect before the receivers took charge, the total reduction in rental of the present agreement is about \$210,000.

As this is a temporary agreement pending permanent reorganization, and as the modifications will enable the receivers to improve the service, it is considered worthy of approval. It should not be considered, however, as a precedent in any way or as indicating that the basis of the agreement would serve as a basis for the general reorganization.

Thereupon the Commission issued the following final order:

In the Matter
of the
Application of the CENTRAL CROSSTOWN
RAILROAD COMPANY for approval of a
modification of the lease by said company to
the METROPOLITAN STREET RAILWAY
COMPANY, dated February 8, 1904, under an
agreement between said company and Adrian
H. Joline and Douglas Robinson, as receivers
of the METROPOLITAN STREET RAILWAY
COMPANY.

Case No. 1132
Approval Order
August 20, 1909.

WHEREAS, The Central Crosstown Railroad Company filed with the Public Service Commission for the First District its application bearing date July 1, 1909, praying the approval of the Commission to a modification and to an agreement for modification of the lease of the Central Crosstown Railroad Company to the Metropolitan Street Railway Company, dated February 8, 1904, said agreement being evidenced by a letter of the receivers of the Metropolitan Street Railway Company bearing date April 27, 1909, accepted by a letter of said Central Crosstown Railroad Company bearing date April 30, 1909; and

WHEREAS, The said Public Service Commission for the First District did thereupon by order adopted July 13, 1909, direct the application to be heard on the 6th day of August, 1909, at 2:30 o'clock in the afternoon, and that the applicant publish a notice of said application and of the time and place of said hearing in the manner and as provided in and by said order, and the said applicant did thereupon cause notice of said application and of the time and place of the said hearing to be published in pursuance of said order, and did file proof thereof with the Secretary of the Commission before the opening of such hearing, and the matter coming on to be heard on said August 6, 1909, at 2:30 o'clock in the afternoon, upon the said application, Mr. Commissioner Maltbie presiding, and the Central Crosstown Railroad Company having appeared by A. J. Kenyon, Esq., and Adrian H. Joline and Douglas Robinson, receivers, appearing by William M. Coleman, Esq., and no one appearing in opposition, and the said hearing having been adjourned and continued on the 11th and 13th days of August, 1909, with the same appearances, and the matter having been duly heard and considered, it is hereby

Ordered: That the said agreement between the Central Crosstown Railroad Company and Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, evidenced by the letters aforesaid, for the modification of the lease of the said Central Crosstown Railroad Company to the Metropolitan Street Railway Company, bearing date February 8, 1904, be and the same hereby is approved by the Public Service Commission for the First District, and that this order and approval take effect as of May 1, 1909.

New York Connecting Railroad Company and Brooklyn Heights Railroad Company.—Application for approval of agreement.

Case No. 1045

Hearing Order

Final Order

The New York Connecting Railroad Company and the Brooklyn Heights Railroad Company, on October 30, 1908, petitioned the Commission for its approval of an agreement entered into between the companies under date of October 29, 1908. The Commission, on January 22, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on February 5th. A hearing was had on February 5, 1909. Thereafter the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of the NEW YORK CONNECTING RAILROAD COMPANY and the BROOKLYN HEIGHTS RAILROAD COMPANY for the approval of an agreement entered into between said companies under date of October 29, 1908.</p>	<p>Case No. 1045 Final Order February 9, 1909.</p>
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An application dated October 30, 1908, having been made by the New York Connecting Railroad Company and the Brooklyn Heights Railroad Company to the Public Service Commission for the First District for the approval of an agreement entered into under date of October 29, 1908, between said companies and an order having been duly made by the Commission that a hearing be had at the hearing room of the Commission, No. 154 Nassau Street, Borough of Manhattan, New York City, on February 5, 1909, and said hearing having been duly had on that day before Mr. Commissioner Bassett, Mr. Henry Gilsey, Jr., of counsel for the New York Connecting Railroad Company, and Mr. James Williams, of counsel for the Brooklyn Heights Railroad Company, appearing in behalf of said application, and Mr. LeRoy T. Harkness, Assistant Counsel for the Public Service Commission for the First District, attending, it is

Ordered: That said agreement entered into under date of October 29, 1908, between the New York Connecting Railroad Company and the Brooklyn Heights Railroad Company, be and the same hereby is approved.

The Spuyten Duyvil and Port Morris Railroad Company and the New York Central and Hudson River Railroad Company.
—Application for approval of cancellation of an existing lease between the companies and the substitution of another therefor.

Case No. 1108
Hearing Order
Final Order

The companies, on February 18, 1909, petitioned the Commission for its consent and approval to the cancellation of an existing lease between the companies, dated November 1, 1871, by which the Spuyten Duyvil Company leased to the New York Central Company all of its property, and for the substitution therefor of a new lease, covering the same property.

The Commission, on May 14, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said application on May 25th, and that the companies publish due notice thereof. A hearing was held on May 25, 1909. Thereafter the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of THE SPUYTEN DUYVIL AND PORT MORRIS RAILROAD COMPANY and THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY for an order approving the cancellation of an existing lease between the said two companies, and the sub- stitution therefor of another lease between the said companies including the same property.</p>	<p>Case No. 1108 Final Order June 18, 1909.</p>
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A joint application of The Spuyten Duyvil and Port Morris Railroad Company and of The New York Central and Hudson River Railroad Company duly verified February 18, 1909, and filed with the Public Service Commission for the First District on or about May 3, 1909, praying for the approval by the Commission of the cancellation by the said companies of a lease dated November 1, 1871, by which the said Spuyten Duyvil Company leased to the said New York Central Company all its property, and for the substitution therefor of a new lease to continue during the corporate life of the Spuyten Duyvil Company and any extensions thereof, as set out in the aforesaid joint application;

And an order having been duly made by the Commission, May 14, 1909, that a hearing be had on the said application, and said hearing having been duly held on May 25, 1909, before Hon. John E. Eustis, Commissioner; and

Ira A. Place, Esq., and Alexander S. Lyman, Esq., having appeared for both petitioners, and evidence having been received, it is

Ordered: That the Commission approve the cancellation by the said companies of the existing lease and the substitution therefor of the proposed new lease.

The permission and approval hereby granted shall not be construed to revive or validate any lapsed or invalid franchise, or to enlarge or add to the powers and privileges contained in the grant of any franchise, or to waive any forfeiture.

Metropolitan Street Railway Company.— Application for authorization to purchase stock of Bridge Operating Company.

Case No. 1139

Hearing Order

Opinion of the Commission

Final Order

The Metropolitan Street Railway Company, on July 26, 1909, petitioned the Commission, under section 54 of the Public Service Commissions Law, for authorization to acquire five hundred shares of the capital stock of the Bridge Operating Company. The Commission, on August 3d, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on August 11th. Hearings were had on August 11th and subsequently until August 19, 1909.

OPINION OF THE COMMISSION.

(Adopted August 20, 1909.)

COMMISSIONER MALTBIE:—

This is an application made by the receivers of the Metropolitan Street Railway Company for permission to purchase from the receiver of the New York City Railway Company the stock of the Bridge Operating Company owned by the New York City Company and also certain rights and privileges under contracts made upon May 21, 1904, and upon June 21, 1907. The original application did not ask for approval of the transfer of the rights and privileges under these contracts, but a supplemental petition has been filed, and the two matters have been considered in the one proceeding.

The earliest contract affected by this application is dated May 21, 1904, and is signed by the Brooklyn Rapid Transit Company and the New York City Railway Company. These two companies agreed to procure the formation of a corporation under the Business Corporations Law, to be known as "Bridge Operating Company," with a capital stock of \$100,000, divided into 1,000 shares of \$100 each. The duration of the company was to be per-

petual, and the agreement was to continue during the corporate existence of the Bridge Company. The directors were to be six in number, and each of the contracting parties agreed to take 500 shares of the company's stock and pay for it in cash. They further agreed that each would own or control one-half of the entire capital stock of the Bridge Operating Company at any time issued and outstanding, that the Board of Directors in the Bridge Company should always be an even number, and that each of the parties should be permitted by the other to designate and control the election of one-half of the directors. The profits of the local bridge service, if there should be any, were to be paid out entirely in dividends to the stockholders of the Bridge Company. In case of loss on the local bridge service, the amount of the loss was to be made up equally by the contracting parties.

The Bridge Operating Company was duly formed and the certificate of incorporation filed in the office of the Secretary of State July 29, 1904. The purpose of the corporation was stated to be:

(a) To enter into a contract for operating any portion of the Williamsburg Bridge;

(b) To operate the same pursuant to any contract it may make therefor;

(c) To acquire and use equipment necessary or proper for such operation.

The certificate, the list of the directors and the list of stockholders indicate that the above agreement was carried out and one-half the stock placed in the name of the Brooklyn Rapid Transit Company and one-half in the name of the New York City Railway Company.

The second contract referred to in the application bears the same date as the one just referred to — May 21, 1904. Although more than two months before the Bridge Operating Company was actually incorporated, this agreement was entered into between the City of New York by the Commissioner of Bridges, the Brooklyn Heights Railroad Company, the Coney Island & Brooklyn Railroad Company, the New York City Railway Company and the Bridge Operating Company, for the operation of surface cars on Williamsburg Bridge. All of the companies except the Bridge Operating Company signed this agreement on the date just mentioned, but the Bridge Operating Company, which had not come into existence on the date of the agreement, signed the agreement by E. W. Winter, President, and C. W. Meneely, Secretary, on September 1, 1904. Under the terms of this agreement the Bridge Company was given the right to operate local service on the Williamsburg Bridge for a period of ten years from September 1, 1904. It was also agreed that after the termination of this period, operation should continue under this agreement until one year after the Commissioner of Bridges should have notified the companies to cease such operation; but there was reserved to any one of the companies the right to cease operation at any time after the expiration of the ten-year period, the Bridge Commissioner having been given one year's notice of its intention to do so. The Bridge Company agreed to furnish a sufficient number of cars equipped for operation with electricity by both the overhead and the underground trolley systems, and also to supply sufficient current so that its cars could be operated on either the north pair or the south pair of surface tracks on the bridge. The Bridge Company agreed to maintain the surface tracks and

electrical equipment on the bridge in good order and repair, subject to the approval of the Bridge Commissioner, and to pay the city \$10,000 a year for the use of the city's electrical equipment, loops and other terminal facilities. Each of the companies agreed to pay the city five cents per round trip for each car operated by them over the bridge. The Bridge Company was authorized to charge a fare of three cents or less per passenger for a ride across the bridge, or at the rate of five cents for two tickets. The other companies were given the right to charge five cents per passenger but could not charge any additional fare for through passengers. Children "actually and apparently" under three years of age were to be carried free.

For through operation from the Manhattan side to the Brooklyn Plaza, the north pair of tracks was set aside for the use of the New York City Railway Company. It was further stipulated that the New York City Railway Company "may, with the approval of the Bridge Commissioner, permit any other company operating a street surface railroad in the Borough of Manhattan, to operate its cars over the northerly pair of surface tracks." For through service from the Borough of Brooklyn to the Delancey Street terminal, the south pair of tracks was set aside for the use of the Brooklyn Heights Railroad Company and the Coney Island and Brooklyn Railroad Company. These companies were authorized in turn to permit other Brooklyn companies to operate cars on the southerly pair of tracks with the approval of the Bridge Commissioner. It was stipulated, however, that not more than 16 per cent of the cars operated in any one hour on the southerly pair of tracks should be operated by the Coney Island & Brooklyn Railroad Company and its sub-lessees, and not more than 84 per cent by the Brooklyn Heights Railroad Company and its sub-lessees.

The above contracts apparently give these companies exclusive rights to operated cars over the tracks mentioned, although there are no words expressly to this effect. We are informed that the companies so interpret the agreements, and the fact that the Manhattan Company may allow other railroads in this borough to operate cars over the pair of tracks allotted to the New York City Company and that similar rights are given to the two Brooklyn companies, seems to indicate that such was clearly the intention of the contracting parties. An arrangement entered into over a year ago between the receivers of the Dry Dock, East Broadway & Battery Railroad Company and of the New York City Railway Company supports this contention. Prior to that time the Dry Dock Company was not operating cars over the Williamsburg Bridge but obtained the right to do so upon agreeing to pay to the New York City Railway Company the sum of ten cents per car for each car making a round trip over the Williamsburg Bridge; "that is to say, five cents for the amount of the toll payable to the Bridge Commissioner, and in addition thereto five cents for the right to use the bridge under the contract of the New York City Railway Company."

The third agreement referred to in the application is also dated May 21, 1904. It relates to operation and accounts, and purports to include the New York City Railway Company, the Brooklyn Heights Railroad Company, the Coney Island & Brooklyn Railroad Company, and the Bridge Operating Company—the four companies named in the preceding agreement. The contract was executed by the various companies with the exception of the Coney Island & Brooklyn Railroad Company, which has never signed the

agreement. It is binding, therefore, only so far as it affects the other three companies. Under this agreement the operation of the local cars of the Bridge Operating Company was to be apportioned between the north and south pair of tracks, and the expense of maintaining the tracks and electrical equipment on the bridge, so far as it related to the north pair of tracks, was to be divided between the Bridge Operating Company and the New York City Railway Company in proportion to the number of cars operated by the two companies on these tracks. The expense for maintaining the south pair of tracks was in like manner to be apportioned between the Bridge Operating Company, the Brooklyn Heights Railroad Company and the Coney Island & Brooklyn Company, in proportion to the number of cars operated by the respective companies on these tracks. It was agreed that in order to throw all the local traffic to the Bridge Operating Company, the several railroad companies should not carry passengers across the bridge for less than a five-cent fare. Cars of other companies admitted to the bridge by any of the parties to this agreement should be considered, for the purpose of this agreement, as being operated by the party admitting them to the bridge. Under this agreement provision was made for the apportionment of expenses and of the rental to be paid to the city. It is unnecessary for this opinion to elaborate the details of this arrangement.

Under date of June 21, 1907, two other agreements were signed to which the New York City Railway Company was a party. The Bridge Operating Company had apparently been operating local service over the bridge for nearly three years when, for some reason not explained in the record, it was considered advisable to change the plan of operation. An agreement was thereupon entered into between the Bridge Operating Company, the Brooklyn Heights Company and the New York City Company, by the terms of which the two railroad companies agreed to assume the obligations imposed upon the Bridge Company by the contract with the City dated May 21, 1904, and to operate the Bridge Company's cars and plant. The railroad companies agreed to pay all taxes and other assessments and charges at the beginning of each fiscal year and to pay to the stockholders of the Bridge Company a 6 per cent dividend on their stock. This meant, of course, that the railroad companies operating the local cars jointly were to pay 6 per cent on \$50,000 of stock to the New York City Railway Company and a like amount to the Brooklyn Rapid Transit Company. The Bridge Operating Company agreed to turn over to the railroad companies all of its property and cash on hand, except a working fund of \$10,000.

By another agreement of the same date (June 21, 1907), between the New York City Railway Company and the Brooklyn Heights Railroad Company, the two companies assumed responsibility in equal amounts for all expenses, losses and liabilities incidental to the performance of their contract with the Bridge Operating Company, and agreed that all profits resulting from this contract should be divided equally between them. It was provided that, if for convenience either company should for any period of time assume sole control of the operation of cars under the contract with the Bridge Company, in that case the other company should nevertheless be responsible for one-half of the expenses, losses and liabilities incidental to the operation

of the local cars and that the two railroad companies should continue to share equally all profits from such operation, "proper provision having been made for the compensation of the company which assumes the direct and immediate charge of the operation of the cars under said contract." It was provided that this agreement might be terminated by either party on three months' written notice.

It seems that actual operation of the local bridge service was at once assumed by the Brooklyn Heights Railroad Company and has ever since that date been carried on exclusively by that company. By an exchange of letters it has apparently been agreed that the Brooklyn Heights Company shall receive \$5,000 a year for general administration of the line and \$2,500 a year for depot, storage and shop facilities. These letters were not referred to in the application and are, therefore, not considered in this opinion or in the order to be issued.

At the present time the New York City Railway Company is in process of liquidation, and for some time the receivers of the Metropolitan Street Railway Company have been operating cars over the Williamsburg Bridge as per the contracts outlined, but without any legal authority to do so. As the New York City Railway Company has ceased to be an operating company, the receivers of the Metropolitan Company now ask that they be substituted in these contracts for the New York City Railway Company and that the stock owned by that company be transferred to them.

I do not consider that an approval of the application involves an approval of the terms of the various agreements entered into by the New York City Railway Company with other railroad companies and with the City of New York. The question is merely whether the transfer of the rights and privileges under these contracts and of the ownership of the stock to the receivers of the Metropolitan Street Railway Company will be advantageous. No one appeared to oppose the transfer at the hearings, and I have found no adequate reason for disapproval of the application.

The compensation for the transfer of the stock and of the rights and privileges is stated to be \$150,000, which is equivalent to \$300 for each \$100 of investment, the stock having been fully paid in. Approval of the application should not be construed as an expression of opinion upon the reasonableness or adequacy of the compensation. It was stated by the representative of the applicants that the price has been approved by the United States Court and that the issuance of a formal order to this effect has been delayed pending action by the Commission.

It is also true that our approval does not bind us in any way to recognize the amount paid as a proper capital charge or as a basis upon which the receivers of the Metropolitan Street Railway Company are entitled to a fair return. These matters are wholly outside of the present proceeding and are not passed upon directly or indirectly in connection with this application. Each will be considered upon its merits when it comes before the Commission.

Thereupon the Commission issued the following order:

In the Matter
of the
Application of ADRIAN H. JOLINE and
DOUGLAS ROBINSON, as receivers of the
METROPOLITAN STREET RAILWAY COM-
PANY, for authorization of purchase of stock
of Bridge Operating Company and for approval
of assignment or transfer to said receivers of
rights to operate cars over Williamsburg
Bridge, under section 54 of the Public Service
Commissions Law.

Case No. 1139
Order Granting Applica-
tion
August 20, 1909.

Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, having made due application to this Commission under section 54 of the Public Service Commissions Law, for the authorization by this Commission of the acquisition by them as such receivers of five hundred (500) shares of the capital stock of the Bridge Operating Company, which shares are now owned by William W. Ladd, as receiver of the New York City Railway Company, and for the approval by this Commission of the proposed assignment or transfer by said William W. Ladd, as receiver of the New York City Railway Company, to said Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, of the rights of the New York City Railway Company under various contracts relative to the operation of cars over Williamsburg Bridge, which contracts are hereinafter specifically mentioned.

And a hearing having been had upon said application on August 11, August 16, and August 19, 1909, Commissioner Maltbie presiding, H. M. Chamberlain, Esq., assistant counsel, appearing for the Commission, and Messrs. Masten and Nichols, by William M. Coleman, Esq., attorney, appearing for said Adrian H. Joline and Douglas Robinson as receivers of the Metropolitan Street Railway Company, and Edgar E. Schiff, secretary to the Commissioner of Bridges of the City of New York, appearing for said Commissioner of Bridges but not opposing said application, and due notice of said hearing having been given to the Commissioner of Bridges of the City of New York, the Brooklyn Rapid Transit Company, the Brooklyn Heights Railroad Company and the Coney Island and Brooklyn Railroad Company,

And it appearing to the Commission after a consideration of the testimony produced upon said hearing that the application of the petitioners should be granted,

Now, therefore, it is

Ordered: (1) That said Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, be and they hereby are authorized to purchase and acquire from said William W. Ladd, as receiver

of the New York City Railway Company, said five hundred (500) shares of the capital stock of the Bridge Operating Company and to take and hold the same.

(2) That the approval of the Public Service Commission for the First District be and it hereby is granted to the assignment or transfer by said William W. Ladd, as receiver of the New York City Railway Company, to Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, of the rights of the New York City Railway Company under various contracts relative to the operation of cars over the Williamsburg Bridge, which contracts are as follows: (a) agreement between the Brooklyn Rapid Transit Company and the New York City Railway Company for the incorporation of the Bridge Operating Company, dated May 21, 1904; (b) agreement between the City of New York, the Brooklyn Heights Railroad Company, the New York City Railway Company, the Coney Island and Brooklyn Railroad Company and the Bridge Operating Company, covering the operation of surface cars on Williamsburg Bridge, dated May 21, 1904, called the "Bridge Contract"; (c) agreement between the Brooklyn Heights Railroad Company, the New York City Railway Company and the Bridge Operating Company in reference to "operation and accounts", dated May 21, 1904; (d) agreement between the Bridge Operating Company, the Brooklyn Heights Railroad Company and the New York City Railway Company, dated June 21, 1907; (e) agreement between the New York City Railway Company and the Brooklyn Heights Railroad Company, dated June 21, 1907.

Staten Island Railway Company.— Application for consent and approval to transfer of stock to Baltimore and Ohio Railroad Company.

Case No. 1143

Hearing Order

Opinion of the Commission

Final Order

The Staten Island Railway Company, on July 28th, petitioned the Commission for its consent and approval, under section 54 of the Public Service Commissions Law, to the transfer of 227 shares of its capital stock on its books to the Baltimore and Ohio Railroad Company. The Commission, on August 3, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on August 16th. A hearing was had on August 16, 1909.

OPINION OF THE COMMISSION.

(Adopted August 27, 1909.)

COMMISSIONER BASSETT:—

The Staten Island Railway Company, a domestic railroad corporation under the jurisdiction of the Commission, has petitioned for authorization for the Baltimore & Ohio Railroad Company, a foreign railroad corporation, to purchase, acquire, take and hold 227 shares of the stock of the Staten Island Railway Company and for its transfer on the books of the applicant. It appears that the Baltimore & Ohio Railroad Company owns all of the stock of the Staten Island Railway Company except certain shares to qualify officers and the 227 shares sought to be transferred. The total number of shares are 14,000. At the hearing duly called no one appeared to oppose the transaction and no facts seemed to exist that will render it harmful to the public interest that these shares should be transferred to the Baltimore & Ohio Railroad Company. If the last named company did not now have a controlling interest it would probably be desirable to investigate all the surrounding facts carefully to ascertain the effect of the control of this local transportation company going into the possession of a foreign corporation. Section 54 specifically states that nothing herein contained shall be construed to prevent the holding of stock heretofore lawfully acquired.

This application is not made by the Baltimore & Ohio Railroad Company, the acquiring corporation, but by the local corporation, which in a sense is not a party to the purchase. Inasmuch, however, as the law states that no transfer of stock shall be made upon the books of the domestic railroad corporation until the authorization of the Commission has been obtained, it seems to me that it is proper that the Staten Island Railway Company should, as it has, bring this matter to the attention of the Commission and ask for its sanction for the purchase by a foreign corporation, which the testimony shows now has the possession and equitable title to the shares sought to be transferred, and to their transfer on the books of the domestic corporation.

Thereupon the Commission issued the following order:

In the Matter of the Application of the STATEN ISLAND RAILWAY COMPANY for consent and approval of the Public Service Commission for the First Dis- trict to the transfer on its books to the Balti- more & Ohio Railroad Company of 227 shares of the capital stock of the Staten Island Rail- way Company.

Case No. 1143
Approval Order
August 27, 1909.

WHEREAS: The Staten Island Railway Company has presented to this Commission its petition dated July 28, 1909, asking the consent and approval of the Commission to the transfer on its books of 227 shares of capital stock of the petitioner to the Baltimore & Ohio Railroad Company, a Maryland corporation; and

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WHEREAS: A hearing on said petition was had in the office of the Commission on August 16, 1909, before Hon. Edward M. Bassett, Commissioner, presiding, Joseph P. Cotton, Esq., appearing for the petitioner;

Resolved: That the Baltimore & Ohio Railroad Company be and it hereby is authorized to purchase, acquire, take and hold the 227 shares of the capital stock of the Staten Island Railway Company below described.

Further resolved: That this Commission consents and authorizes such transfer or assignment upon the books of the Staten Island Railway Company as shall be necessary effectively to vest in the Baltimore & Ohio Railroad Company full and complete ownership of the stock represented by the following certificates, in all 227 shares:

<i>Certificate Number.</i>	<i>Name of Transferrer.</i>	<i>Number of Shares.</i>
507	Wessels, Kulenkampff & Co.....	100
508	Wessels, Kulenkampff & Co.....	10
531	Chas. R. Lynde, Administrator.....	5
765	Alfred L. Beebe.....	2
243	Mrs. C. M. Williams.....	8
136	Geo. M. V. Schlichting.....	5
58	Emma S. Fitzhugh.....	57
538	Nathaniel Marsh	35
367	Mary Wolfe Slattery.....	5
Total		227 shares.

Union Railway Company of New York City and Westchester
Electric Railroad Company.—Application for approval of contract affecting franchises of both companies.

Case No. 1188
Final Order
Hearing Order

The companies, on December 10, 1909, petitioned the Commission for its approval, under section 54 of the Public Service Commissions Law, of a contract affecting the franchises of the companies in reference to operation of cars on their lines. The Commission, on December 15th, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on December 24th, and that the companies publish due notice thereof. A hearing was held on December 24th. Thereafter the Commission issued the following order:

In the Matter
of the

Application of the UNION RAILWAY COMPANY OF NEW YORK CITY, and Frederick W. Whitridge as its receiver, and the WESTCHESTER ELECTRIC RAILROAD COMPANY, and J. Addison Young as its receiver, for the approval by the Public Service Commission for the First District under section 54 of the Public Service Commissions Law of a contract dated December 6, 1909, affecting the franchises of said companies entered into by and between said companies and their receivers in reference to operation of cars on the lines of said companies.

Case No. 1188
Final Order
December 27, 1909.

The Union Railway Company of New York City, and Frederick W. Whitridge as its receiver, and the Westchester Electric Railroad Company, and J. Addison Young, as its receiver, having made application to the Public Service Commission for the First District by petition duly verified and filed and accompanied by the documents required by the rules of practice of the Commission for the approval by the Public Service Commission for the First District pursuant to the provisions of section 54 of the Public Service Commissions Law, of a contract dated December 6, 1909, affecting the franchises of said companies, entered into between said companies and their receivers in reference to operation of cars as follows:

(a) Operation by the Westchester Electric Railroad Company of its cars in common with the cars of the Union Railway Company of New York City over the tracks of the Union Railway Company of New York City in the Borough of The Bronx, City of New York, as follows:

On the White Plains Road to Olin Avenue; and along Olin Avenue to Webster Avenue; and on Webster Avenue to the station of the Manhattan Elevated Railway Company at Bedford Park and (if mutually arranged) along Webster Avenue from Olin Avenue to the Yorkers city line.

(b) Operation by the Westchester Electric Railroad Company of its cars in common with the cars of the Union Railway Company of New York City over the tracks of the Union Railway Company of New York City in the Borough of The Bronx, City of New York, as follows:

On the White Plains Road to Morris Park Avenue; thence along Morris Park Avenue to the West Farms Road; thence along the West Farms Road to the Tremont station of the subway at West Farms.

(c) Operation by the Union Railway Company of New York City of its cars in common with the cars of the Westchester Electric Railroad Company over the tracks of the Westchester Electric Railroad Company as follows:

On the White Plains Road from 233d Street in the Borough of The Bronx (otherwise known as Nineteenth Avenue, Williamsbridge) to the New Haven station in the City of Mount Vernon.

And the Commission having fixed Friday, December 24, 1909, at 10:00 A. M., at the hearing room of the Commission, at No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said application, and having directed that a notice of said application and of the time and place of said hearing, containing a statement of the routes over which it is pro-

posed by said companies to operate cars in common, be published in certain newspapers and at certain times specified by the Commission.

And said hearing having been had by and before the Commission at the time and place aforesaid, Commissioner Eustis presiding, George W. Davison, Esq., and Arthur M. Johnson, Esq., appearing for the petitioners and presenting proof of publication of notice of such application and hearing as required by the Commission; and testimony having been taken upon said hearing; and the Commission having determined after said hearing that said contract should be approved,

Ordered: That said contract, dated December 6, 1909, made and entered into by and between the Westchester Electric Railroad Company and J. Addison Young as its receiver, and the Union Railway Company of New York City, and Frederick W. Whitridge as its receiver, be and the same hereby is approved.

This approval is conditioned upon and subject to a grant by the Public Service Commission for the Second District of its permission and approval to the construction and operation by the Westchester Electric Railroad Company of certain lines of railroad in Westchester County, New York, under a franchise granted by the Common Council of the City of Mount Vernon on September 27, 1909, and approved by the Mayor of that city on October 6, 1909, and a franchise granted by the President and Board of Trustees of the Village of Pelham Manor on or about November 8, 1909; and the approval by this Commission of said contract shall take effect only upon the grant of such permission and approval by the Public Service Commission for the Second District.

Nothing herein contained shall be construed as an approval by the Public Service Commission for the First District of any part or parts of said contract requiring or authorizing a violation of or departure from the terms and conditions of any franchise or franchises heretofore granted to either of the aforesaid companies, or to the predecessors of either of them, or as a waiver by the Public Service Commission for the First District of any of its rights, powers and duties under the law to compel compliance by either of said companies with the terms and conditions of any such franchise or franchises or to supervise, regulate and control said companies.

Applications for Approval of Mergers.

Brooklyn Union Gas Company.—Application for consent and approval to merger with Equity Gas Company.

Case No. 1107

Hearing Order

Discontinuance Order

The Brooklyn Union Gas Company, on May 10, 1909, petitioned the Commission, praying its consent and approval to a

merger with the Equity Gas Company. The Commission, on May 14th, directed (see blank form of hearing order, page 9) that a hearing be had on said application on May 21st, and that the company publish due notice thereof. Hearings were held on May 21st and subsequently until June 18th. The Company having thereafter withdrawn its application, the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of the BROOKLYN UNION GAS COMPANY for the written consent, permission and approval of the Public Service Commission for the First District to the merger of the Equity Gas Company with the BROOKLYN UNION GAS COMPANY.</p>	<p>Case No. 1107 Discontinuance Order December 21, 1909</p>
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The Brooklyn Union Gas Company having, in writing, dated June 11, 1909, withdrawn its application, verified May 10, 1909, in the above entitled proceeding, it is

Ordered: That the above entitled proceeding be and the same hereby is discontinued.

Applications by Companies for Abandonment of Routes or Portions of Routes.

New York and Queens County Railway Company.— Application for approval of abandonment of route in Pierce Avenue, First Avenue or Lockwood Street; Ridge Avenue, Academy Street and Jane Street, in the Borough of Queens.

Case No. 1187

Hearing Order

The company, on December 18, 1909, petitioned the Commission, under section 103 of the Railroad Law, for its approval of a declaration of abandonment of portions of its route in Pierce Avenue, First Avenue or Lockwood Street; Ridge Road, Academy Street and Jane Street, in the Borough of Queens. The Commission, on December 28th, directed (see blank form of hearing order, page 9) that a hearing be had on said application on January 10, 1910.

New York City Interborough Railway Company.—Application for approval of abandonment of portions of its route on West 238th Street, East 200th Street, Decatur Avenue, Intervale Avenue and Wilkins Place.

Case No. 1185

Hearing Order

The company, on December 9, 1909, petitioned the Commission for its approval, under section 103 of the Railroad Law, of a declaration of abandonment of portions of its route on West 238th Street from Broadway to Corlear Avenue; on East 200th Street from Jerome Avenue to Southern Boulevard; on Decatur Avenue from Mosholu Parkway to Kingsbridge Road and on Intervale Avenue and Wilkins Place from Dongan Street to Crotona Park. The Commission, on December 14, 1909, directed (see blank form of hearing order, page 9) that a hearing be had upon said application on December 27th, and that the company publish due notice thereof and post such notice in each car operated by said company in the City of New York. A hearing was held on December 27th and adjourned to January 17, 1910.

Richmond Light and Railroad Company.—Application for approval of abandonment of part of route and for permission and approval of the exercise of a franchise in the Borough of Richmond.

Case No. 1159

Opinion of the Commission
Order closing record

OPINION OF THE COMMISSION.

BY THE COMMISSION:—

Under date of September 9, 1909, the Richmond Light and Railroad Company, by S. F. Hazelrigg, Vice-President and General Manager of the road, presented to this Commission an application for authority to lay rails on Wadsworth Avenue, a private street running from New York Avenue to Tompkins Avenue, of a distance of about 1476 feet. The purpose of the company, as stated in its application, is to substitute a private right of way for that section of their South Beach line which runs through the United States government reservation on Staten Island, the change being made necessary by the directions of the United States government to the company to remove its tracks on New York Avenue and on Richmond Avenue, where those streets run through the reservation, as the United States govern-

ment contemplates making certain improvements. The railroad company has acquired, or is about to acquire, the private right of way on an unopened street designated as Wadsworth Avenue and on other private lands adjoining the tracks of its Staten Island Rapid Transit Railroad. The only opened streets that will be crossed by this new route are Tompkins and Florida Avenues. By agreement with private property owners, the railroad company is to macadamize, curve and gutter Wadsworth Avenue and in doing this work it now desires permission to lay tracks in Wadsworth Avenue. It is, however, stated by the company that it will not make connection with its road on New York Avenue or attempt in any manner whatsoever to use the street for railroad purposes until such time as it may secure title to the balance of the right of way and obtain the authority of this Commission and the Board of Estimate and Apportionment to cross the public streets.

The railroad company merely desires to improve certain private property as part consideration for the right to use the property in the future and there does not seem to be any need for any action at the present upon the part of this Commission. This is not the beginning of construction of a railroad or any extension thereof within the meaning of section 53 of the Public Service Commissions Law, but is merely work preparatory to an alteration in the route of a railroad. The present application of the company should be closed on the records of this Commission and the proceeding should remain open in order that when the time comes for the abandonment of the company's present route, and for the exercise of its franchise to operate over the new line, the company may make such application as may be necessary in the premises, and in order that the Commission may take such action herein as may be proper.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Application of the RICHMOND LIGHT AND RAILROAD COMPANY for approval of the Public Service Commission for the First District of the abandonment of a part of its route, and for the permission to, and approval of the exercise of a franchise or right in the Borough of Richmond, City of New York.</p>

Case No. 1159
Order Closing Record
September 14, 1909.

The Richmond Light and Railroad Company having presented to this Commission its application, by S. F. Hazelrigg, its Vice-President and General Manager, dated September 9, 1909, asking the permission and approval of the Commission to lay rails on Wadsworth Avenue, a private street running from New York Avenue to Tompkins Avenue, in the Borough of Richmond, City of New York, and it appearing that the permission and approval of the Commission to the laying of the rails as aforesaid on said Wadsworth Avenue is not at present necessary, it is

Ordered: That the matter of the said application of the Richmond Light and Railroad Company, by S. F. Hazelrigg, Vice-President and General Man-

ager, be, and the same hereby is closed on the records of this Commission; it is

Further Ordered: That this proceeding remain open for the filing by said company of any further application in the premises and for any other or further action which to the Commission may seem proper.

The company, on October 1, 1909, made further application to the Commission for approval of a franchise in substitution of the one it already exercised.

Discontinuance or Relocation of Stations.

Brooklyn Union Elevated Railroad Company.—Application for permission to discontinue station at Linwood Street, East New York.

Case No. 1186

Hearing Order

The company, on December 10, 1909, petitioned the Commission, under section 34 of the Railroad Law, for its consent to the discontinuance of the passenger station on the Kings County elevated railroad at Linwood Street, Borough of Brooklyn, and to remove the same to a point upon said line of elevated railroad at Ashford Street, Borough of Brooklyn. The Commission, on December 21st, directed (see blank form of hearing order, page 9) that a hearing be had upon said petition on December 29th, and that the company publish due notice thereof and post such notice in various stations of its line. A hearing was held on December 29, 1909. No further action during 1909.

New York Central and Hudson River Railroad Company.—Application for permission to discontinue 183d Street Station, Borough of The Bronx.

Case No. 1105

Hearing Order

Opinion of the Commission

Order denying application

The company petitioned the Commission, under section 34 of the Railroad Law, for an order permitting the discontinuance of its station at 183d Street and Park Avenue, Borough of The

Bronx. The Commission, on May 7, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on May 25, 1909, and that the company publish due notice thereof and also post copies of such notice in various stations of its line. Hearings were held on May 25th and subsequently until June 16, 1909.

OPINION OF THE COMMISSION.
(Adopted June 18, 1909.)

COMMISSIONER EUSTIS:—

The application herein was made by the New York Central and Hudson River Railroad Company, as the lessee of the New York and Harlem Railroad Company, for the discontinuance of its station at 183d Street on the Harlem branch, for the reason that they claimed said station is no longer required for the accommodation of the public, and the maintenance of said station involves a large financial loss on the railroad company without any compensatory benefit to the public.

It was shown upon the hearing had upon this application that the erection of this station took place a long time subsequent to the building of the road and the installation of the other stations along the line, and the station is about half way between the station at Tremont and the one at Fordham, being nearly a half mile distant from each. It also developed at the hearing that this station was erected as a joint affair between the railroad company and a certain syndicate of property owners, owning a large tract of land in that immediate neighborhood, the cost of the station being \$30,000, and the property owners contributing one-half and the railroad the other half.

There were quite a large number of property owners and their representatives who appeared at the public hearing and objected to the granting of the application herein.

The company submitted in behalf of their application evidence showing that there was very little travel to and from the station, and that the receipts were very small, in fact not more than twenty-five per cent of the cost of maintaining the station itself, without taking into consideration any cost of operation of the trains, and they also gave as a reason for the people deserting their line that when this station was built the convenience given by the elevated and subway had not been at that time extended into The Bronx, but that since the Third Avenue elevated line to Fordham had been built, giving a through fare all the way down town with a transfer to the subway at 149th Street and all the way down the west side for a five-cent fare, they could not expect people in that vicinity to patronize their line. The fare at this station is fifteen cents, which is also the same at Fordham, the next station north, while at Tremont, the next station south, the fare to 42d Street is only ten cents.

The property owners, some of whom were engaged in the real estate business, testified that the maintenance of this station had an effect upon the value of the property of the immediate neighborhood, that not only rents, but values, were higher on 183d Street than they would be on the next street north or south, from the very fact that it was a station street, and

this is a fact well known to every one, that the location of a station along the line of a railroad does give added value to the property in the immediate neighborhood for business purposes.

There are a large number of residents in that vicinity who signed a petition protesting against the closing of this station, and the railroad produced several petitions signed by a large number of their patrons living north of this station, most of them in Westchester County, favoring the application, and seemed to feel that this fact ought to have considerable weight in their favor on the application.

It is a well-known fact that people generally are inclined to favor anything that is to their individual benefit, and it is not strange that the people traveling over this line from Mt. Vernon and stations north would be very glad to have 183d Street station closed, because it would save them perhaps one minute in reaching 42d Street, if their train did not make that stop, and I do not feel that this evidence should be given great consideration in the disposition of this application.

The company had seemed to do everything that it could possibly do to drive their patrons away from this station, and, after having succeeded in eliminating nearly all of their patrons, they now come to this Commission and ask that they may be permitted to close the station, i. e., they have been taking off trains so that at the present time they have only six trains one way and nine the other that stop at this station; they have no train service at this station after 6:30 at night; they give people at this station no service at all on Sundays; and they maintain a rate of fare the same as they do at the next station north, and it appeared that a great many people living between 183d Street and Fordham always go to the Fordham station because they get a great many more trains there and the same fare.

I am of the opinion that the railroad company are not coming to this Commission with a fair proposition when they ask to close this station. They have constructed it one-half at the property owners' expense, and now they wish to discontinue it and take it away against the property owners' protest. It certainly would be inequitable for them to do so without first offering to return the money that the property owners contributed towards the erection of this building. That they have not offered to do, and probably could not, because the property owners at the time who contributed this money have reaped their benefit by selling the unimproved property to others, and very few of the original owners are now property owners in that section.

The railroad company undertook on the second hearing to show that a large number of the signers to the petition that was submitted by the objectors were not particularly interested but signed at the request of others. That we know is the case in obtaining all petitions, but from their own showing about fifty per cent of those who signed the petition admitted that they were patrons of the road, some daily, others quite frequently, and others only now and again.

There is another view that must be taken of this application at the present time, which the Commission has received no light upon at all from the railroad company, and that is, what is their future intention as to the service to be given to the people in The Bronx along the line of the

Harlem railroad. It has been shown on other hearings that their policy has been for some time past to gradually eliminate the number of stops that their trains make at the stations along the Harlem depression between the city line and 42d Street. This course of itself will gradually drive away passengers. But the company have taken the position that it is absolutely necessary in order to accommodate their through traffic, and to my mind it is going to become at a very early day a very serious question whether the railroad is to be utilized not only for through traffic but also to its utmost capacity for local traffic, and, if so, it should not be allowed to take off its trains or to close its stations. When the City of New York, especially the Borough of Manhattan and the Borough of The Bronx, is suffering, as it is today, from crowded trains on its rapid transit lines, it seems almost a shame that this depressed line all the way from the northerly terminus of the city could not render a rapid transit service to people living along its line. It is the most natural location, being so central, and, if they were to give a frequent service within the city limits at a competing fare with the present rapid transit lines, it would certainly give some relief to the great congestion that the other lines have, and would be able to carry full trains without any question.

I endeavored to ascertain from the counsel upon this hearing what their future purpose was, and he frankly said that no one could tell, that it seemed as fast as they were able to get added facilities ready to their terminal station at 42d Street, their through traffic seemed to demand most of it; that they intended and expected to give a very frequent local service when those improvements were done, but whether they would be able to do it or not, in view of the fact that their Fourth Avenue tunnel was limited to four tracks, was a question which only the future could determine.

I am therefore of the opinion, at the present time, that this application should be denied.

Thereupon the Commission issued the following order:

<p>In the Matter of the Application of the NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY for an order directing the discontinuance of the 183d Street Station, in the Borough of The Bronx, City of New York.</p>	<p>Case No. 1105 Order Denying Application June 18, 1909</p>
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The New York Central and Hudson River Railroad Company having made application to the Public Service Commission for the First District, by a petition duly subscribed and filed on or about April 27, 1909, by A. H. Smith, Vice-President and General Manager, pursuant to the provisions of section 34 of the Railroad Law, for an order of the Commission permitting the discontinuance of the 183d Street Station of said com-

pany's "Harlem Division" at 183d Street and Park Avenue, in the Borough of The Bronx, City of New York,

And the Commission having fixed Tuesday, the 25th day of May, 1909, at four o'clock in the afternoon, at the hearing room of the Commission, No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that notice of said application and of the time and place of said hearing be published in certain newspapers and at certain times specified by the Commission and that copies of such notice be posted and conspicuously fastened up in said station and in certain other stations on said Harlem Division, in the manner specified by the Commission; and said hearing having been had by and before the Commission at the place aforesaid on May 25, 1909, and May 28, 1909, Commissioner Eustis presiding, Alexander S. Lyman, Esq., attorney, appearing for said New York Central and Hudson River Railroad Company in support of said application and presenting proof of publication of notice of such application and hearing and proof of the posting of notices, as required by the Commission, and W. W. Niles, Esq., and others, appearing in opposition to said application; and testimony having been taken upon said hearing, and argument having been had on the question of such discontinuance on June 16, 1909, before the whole Commission; and the Commission having determined after said hearing and after said argument that the consent of the Commission to the discontinuance of said station should not be granted, now, therefore, it is

Ordered: That the said application of the New York Central and Hudson River Railroad Company for the discontinuance of the station at 183d Street and Park Avenue, in the Borough of The Bronx, City of New York, be and the same hereby is denied.

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South Brooklyn Railway Company.— Application for permission to discontinue Kensington Station.

Case No. 1111

Hearing Order

Opinion of the Commission

Final Order

The company petitioned the Commission, under section 34 of the Railroad Law, for an order permitting the discontinuance of its station located at the intersection of Lots Lane and Gravesend Avenue, Borough of Brooklyn, known as Kensington Station. The Commission, on May 18, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on June 1st, and that the company publish due notice thereof and also post copies of such notice in various stations on its line. Hearings were held on June 1st and subsequently until June 15, 1909.

OPINION OF THE COMMISSION.

(Adopted June 25, 1909.)

COMMISSIONER MCCARROLL:—

This is a proceeding on application of the South Brooklyn Railway Company for permission to discontinue the stoppage of its trains at Kensington Station on Gravesend Avenue. The reason for this is that practically adjoining that station, one street intervening, is another known as Kensington Junction, at which trains also stop. At that point, or just to the north of it, there is a junction with the 16th Avenue surface line and the so-called Culver line, from which the station takes its name of Kensington Junction.

The company made a similar application some time ago to our predecessors. It was denied, though granting a permission to the company temporarily to omit the one stop during the summer season under certain conditions. The company is now following that custom, but claims that it has been unable to comply with the condition, which was the erection of a station at Kensington Junction.

The facts are, that the distance between the stations is but little more than three hundred feet, or about a train's length, the Kensington Station being that distance to the south of the Kensington Junction.

The company bases its application upon the ground of the undesirability in operation of making two stops at such short distance apart and upon the ground that the one stop should properly be made at the point near the junction where the signals would be most clearly discernible. It is also claimed that whereas it was in the past, when the people in the vicinity were few, a matter of small importance and perhaps of some advantage to make two stops, the conditions are now materially changed by reason of the growth of population, and it has become a somewhat serious matter for the larger number to be delayed by the trains making both stops. The company also contends that the convenience of the public using the stations can be substantially as well served by the elimination of one. While, obviously, the latter would involve something of a longer walk for some individuals, it is considered that this is not now of moment, not only because of the short distance, but the surface of the street will not be impeded as it formerly was by the tracks obtruding to a considerable height and also encumbered with pipe and rods which constituted an obstacle to pedestrians. The tracks are now being placed at the level of the surface and these rods under cover; the other obstructions are being removed, so that passage on the street will not be inconvenient, as formerly.

The evidence and investigation also showed that the travel is many times larger at the Junction Station than at Kensington Station, this being due to the number of those who transfer to and from the various lines at that point.

On considering all the facts, and the evidence, it would appear to be in the interest of the traveling public that the operation of the trains should be facilitated and delays eliminated as far as possible. I am, therefore, of the opinion that the application should be granted and the stop at Kensington Station discontinued, and recommend the adoption of the accompanying order to that effect.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the Petition of SOUTH BROOKLYN RAILWAY COMPANY for leave to discontinue the rail- road station located at the intersection of Lots Lane and Gravesend Avenue, in the Borough of Brooklyn, known as the Kensington Station.</p>	<p style="text-align: right;">Case No. 1111 Order Granting Applica- tion June 25, 1909.</p>
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The South Brooklyn Railway Company having made application to the Public Service Commission for the First District by a petition duly verified and filed by C. D. Meneely, Secretary and Treasurer, pursuant to provisions of section 34 of the Railroad Law, for an order of the Commission permitting the discontinuance of the Kensington Station, located at the intersection of Lots Lane and Gravesend Avenue, in the Borough of Brooklyn, City of New York; and the Commission having fixed Tuesday, the 1st day of June, 1909, at 3:30 o'clock in the afternoon, at the hearing room of the Commission, No. 154 Nassau Street, Borough of Manhattan, City of New York, for a hearing upon said petition, and having directed that notice of said application and of the time and place of said hearing be published in certain newspapers and at certain times specified by the Commission, and that copies of such notice be posted and conspicuously fastened up in said station and in certain other stations on said company's line in Gravesend Avenue in the manner specified by the Commission; and said hearing having been had by and before the Commission at the place aforesaid on June 1, 1909, and June 15, 1909, Commissioners Bassett and McCarroll presiding, Arthur N. Dutton, Esq., Superintendent of Transportation of the South Brooklyn Railway Company appearing for said company in support of said application and presenting proof of publication and of the posting of notices as required by the Commission, and Richmond Weed, Esq., attorney, appearing in opposition to said application; and testimony having been taken upon said hearing; and the Commission having determined, after said hearing, that the consent of the Commission to the discontinuance of said station should be granted, now, therefore, it is

Ordered: That the consent of the Public Service Commission for the First District to the discontinuance by the South Brooklyn Railway Company of said station, known as the Kensington Station, situated at the intersection of Lots Lane and Gravesend Avenue, in the Borough of Brooklyn, City of New York, be and the same hereby is granted.

South Brooklyn Railway Company.—Application for discontinuance of freight station at Culver Yard, Coney Island.

Case No. 1169

Hearing Order

Opinion of the Commission

Final Order

The company, on October 8, 1909, petitioned the Commission, under section 34 of the Railroad Law, for an order permitting the discontinuance of its freight station and yard near Culver Yard in Coney Island. The Commission, on October 13, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition, and that the company publish due notice thereof and also post such notice in conspicuous places in the station to be abandoned. A hearing was held on October 28, 1909.

OPINION OF THE COMMISSION.

(Adopted November 9, 1909.)

COMMISSIONER MCCARBOLL:—

By application verified October 8, 1909, the South Brooklyn Railway Company, pursuant to the provisions of section 34 of the Railroad Law, asked permission and approval of the Commission to the discontinuance of the freight yard and station near Culver Yard in Coney Island. A hearing order was adopted October 13, 1909, directing publication in the Brooklyn Daily Eagle and the New York Tribune on five separate days prior to the hearing and also directing that notice of the hearing be posted in two conspicuous places in the freight station to be abandoned from October 18 to October 28. This was done but at the hearing on October 28 there was no appearance except by the South Brooklyn Railway Company. The freight yard now in use which the company wishes to abandon lies at the terminal of the Prospect Park & Coney Island Railway Company adjoining the Culver Station. The freight house has been leased from the Long Island Railroad Company on a month to month basis and is in a dilapidated condition. The applicant, being obliged to construct a new building, does not wish to put it on land belonging to the Long Island Railroad Company and therefore desires to build it on the property of the Sea Beach Railroad Company between West 8th and West 12th Streets. By this change the South Brooklyn Railway Company will use the Sea Beach tracks instead of the tracks of the Prospect Park & Coney Island Railroad Company and hopes to avoid congestion that has existed hitherto.

The application is not really one to abandon the freight house or freight yard, but rather an application for leave to shift the position of its freight terminal and house about one thousand feet from the end of one set of tracks to the end of another. Plans have been submitted showing the existing track layout and proposed changes including detailed plans of freight house to be erected. I recommend that the change be approved and that the South Brooklyn Railway Company be granted leave to discontinue their present terminal when their new freight house and freight yard is ready for use.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Petition of the SOUTH BROOKLYN RAILWAY COMPANY for leave to discontinue the railroad freight station adjacent to the so-called Culver Yard in Coney Island, under section 34 of the Railroad Law.</p>	<p style="text-align: right;">Case No. 1169 Order Granting Approval November 9, 1909.</p>
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The South Brooklyn Railway Company having made application to the Public Service Commission for the First District by a petition verified October 8, 1909, pursuant to the provisions of section 34 of the Railroad Law for an order of the Commission permitting the discontinuance of the freight yard and station adjoining the Culver Yard in Coney Island in the Borough of Brooklyn, City of New York, and the Commission having made an order on October 13, 1909, directing that the said application be heard by the Commission on October 28, 1909, and that the petitioner publish a notice of the time and place of such hearing in the manner provided in said order and file proof of such publication with the Secretary of the Commission and proper proof having been filed of such publication, the said application having been duly heard on October 28, 1909, before Hon. William McCarroll, Commissioner, Capt. A. R. Piper, appearing for the South Brooklyn Railway Company and Arthur DuBois, Esq., appearing for the Commission and no one appearing in opposition thereto, and it appearing that the public convenience would be served by allowing the abandonment of the existing freight yard upon the substitution of a new freight yard and house as described in the plans filed at the said hearing,

Now, therefore, it is

Ordered: That the South Brooklyn Railway Company be and it hereby is authorized to abandon the railroad freight station adjacent to the Culver Yard at Coney Island at such time as the new proposed railroad freight station at the terminal of the Sea Beach Railroad Company is opened and ready for use, constructed substantially in accordance with the plans and blueprints filed with the Public Service Commission for the First District at the hearing held October 28, 1909.

Further ordered: That this order take effect at once except as otherwise above provided.

Other Applications.

Interborough Rapid Transit Company.—Application for extension of time for maintaining temporary spur connection between Power House and tracks of New York Central and Hudson River Railroad Company near West 59th Street and 11th Avenue.

Case No. 1011

The Commission having granted a permit to the company for the maintenance of a spur connection with its power house at 59th Street and Eleventh Avenue, the company made application for an extension of such permit. The Commission, on April 9th, extended the time for the maintenance of the spur connection from April 15, 1909, and subsequently to June 15, 1909. The company subsequently, by application dated June 8, 1909, requested a further extension of time for the maintenance of the spur connection, and the Commission, on June 11th, adopted a resolution again extending the time of the company for the maintenance of the spur connection from June 15, 1909, to January 30, 1910.

Interborough Rapid Transit Company.—Application for approval of location of terminal yard at 242d Street.

Case No. 1148

Resolution

The company petitioned the Commission, on August 6, 1909, praying the approval of the Commission of the location of a terminal yard at 242d Street, together with the necessary tracks, cross-overs and connections.

CASE NO. 1148, APPROVAL ORDER

(Adopted August 31, 1909.)

Resolved: That the location of a terminal yard within the area bounded by Broadway, West 240th Street, Spuyten Duyvil Road and West 242d Street, as indicated on the plan entitled "Interborough Rapid Transit Company. Subway Division. Proposed Storage Yard at 240th Street and Broad-

way," dated July 16, 1909, and numbered 9132 (excepting therefrom the portion required by the agreement dated the 28th day of June, 1909, between the Interborough Rapid Transit Company and the City of New York, to be used for other than railroad purposes), be and the same hereby is approved as part performance of the obligation of the contractor under contract dated February 21, 1900, for the construction, equipment and operation of the Manhattan-Bronx Rapid Transit Railroad to provide terminals free and clear of all liens and encumbrances; and it is

Further resolved: That the track plan for said terminal yard as indicated on said drawing be and the same hereby is approved on condition that detailed drawings shall be submitted to the Commission for its approval in advance of construction; and it is

Further resolved: That the application of the Interborough Rapid Transit Company for permission to construct and maintain cross-overs and connections necessary to connect such terminal yard with the main line of the Manhattan-Bronx Rapid Transit Railroad, as indicated upon said plan, be and the same hereby is approved, and the Chief Engineer is authorized to issue a permit for their construction, on condition that such cross-overs and connections and all work incidental thereto shall be constructed as part of the terminal without expense to the city, and that the contractor and the Interborough Rapid Transit Company shall hold the city harmless from any and all claims arising out of or by reason of the construction or maintenance of such connections and cross-overs.

New York Central and Hudson River Railroad Company.—

Application for approval of lowest bid received for substructure work in carrying East 167th Street across the New York and Harlem Railroad.

The Commission heretofore determined, under section 61 of the Railroad Law, that East 167th Street, in the Borough of The Bronx, should be carried across the tracks of the New York and Harlem Railroad (leased to and operated by The New York Central and Hudson River Railroad Company) above the grade of said railroad by means of an overhead bridge and duly approved the plans for such work submitted by said company. The company, on November 29, 1909, made application for approval of the lowest bid received by it for said work.

The Commission adopted the following resolution:

In the Matter
of the

Application of the NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY under section 65 of the Railroad Law for the approval by this Commission of the lowest bid received by said company for doing the substructure work involved in carrying East 167th Street, in the Borough of The Bronx, City of New York, over and across the New York and Harlem Railroad.

Resolution Approving
Lowest Bid for Sub-
structure Work
December 10, 1909.

WHEREAS, on or about October 5, 1907, this Commission determined that East 167th Street in the Borough of The Bronx, in the City of New York, should be carried across the New York and Harlem Railroad (leased to and operated by the New York Central and Hudson River Railroad Company), above the grade of such railroad by means of an overhead bridge for general traffic, and on the same day duly approved the plans of such work submitted by said New York Central and Hudson River Railroad Company; and on or about March 27, 1908, and September 14, 1909, duly approved modified plans of such work submitted by said company; and

WHEREAS, said company has now made application under date of November 29, 1909, pursuant to section 65 of the Railroad Law, for the approval by this Commission of the lowest bid received by the company for doing the substructure work involved in carrying out said plans so modified, and has submitted to this Commission upon said application a summary in triplicate of the bids received by the company for this work showing that the lowest bid is that of one J. B. Malatesta, the amount of his bid being \$28,715; and it appears that said bid of J. B. Malatesta has been approved by the company and by the President of the Borough of The Bronx and by the Chief Engineer of the Borough of The Bronx; and

WHEREAS, the Commission has determined that said bid is not excessive and is otherwise satisfactory,

Resolved, that this Commission hereby approves the said bid of said J. B. Malatesta for doing the work aforesaid, namely, \$28,715, and that the Secretary of this Commission be and he hereby is directed to indorse upon said summary of bids the approval by this Commission of the bid of said J. B. Malatesta.

New York Central and Hudson River Railroad Company.—

Application *in re* installation of derails on bridge across Harlem River on Putnam Division.

Case No. 1147

Hearing Order

Opinion of the Commission

Final Order

The company petitioned the Commission for a hearing in the matter of the installation of derails on its bridge across the Har-

lem River on the Putnam Division. The Commission, on June 11, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on June 17th. Hearings were held on June 17th and subsequently until July 21, 1909.

OPINION OF THE COMMISSION.

(Adopted August 3, 1909.)

COMMISSIONER EUSTIS:—

Prior to July, 1907, the former Board of Railroad Commissioners had recommended to the New York Central and Hudson River Railroad Company that they install derails on all of their draw-bridges, and, after such recommendation was made, certain exceptions were granted to the New York Central and Hudson River Railroad Company, on their application, owing to the peculiar circumstances surrounding the individual cases where those exceptions were applied for.

On August 25, 1908, the New York Central and Hudson River Railroad Company applied to this Commission for an exception in the case of the bridge over the Harlem River on the Putnam Division, stating that they had the interlocking system, with ample signal protection, installed at this point, and submitted blueprints and memoranda explaining the same. This communication was referred to the Chief Engineer and also to Mr. McLimont, the then electrical engineer of the Commission.

On September 4, 1908, the Electrical Engineer reported in favor of their application, and recommended that the derail system be not installed. The Chief Engineer made a report on their application that unless some reason appears not yet presented that the derails be installed on each side of this draw-bridge.

On September 11, 1908, this Commission approved the report of the Chief Engineer and notified the company accordingly.

On September 22, 1908, Mr. Smith, the Vice-President and General Manager of the New York Central and Hudson River Railroad Company, wrote to the Commission that they would carry out the system of derails recommended by the Commission, at the same time called the Commission's attention to the fact that such installation was undesirable from the standpoint of safety, in the opinion of the company, and that in the event of the derailment of the southbound train a very serious catastrophe might result.

On October 20, 1908, Mr. Smith again wrote to the Commission expressing the same views that the derails for this bridge were unsafe and undesirable, submitting at the same time a plan and description for approval for their installation. This plan was approved on October 30th, on the recommendation of our Chief Engineer, and the company notified accordingly.

It would appear that from that time on to May 21, 1909, the New York Central and Hudson River Railroad Company made no progress with the installation of the derail system, excepting to prepare plans and details, and at this time wrote a personal letter to the Chairman of the Commission reviewing what had been done, and stating that the farther they went into the matter the more firmly they were convinced that it was undesirable, as well as unsafe practice, in this particular instance, to install derails, and

requested the Chairman to give his personal attention to the matter. The result of this communication was a notification to the Company that if they wished a further hearing, the same would be granted; and on June 9th they made a formal application for a further hearing, which was granted, and the hearing set for June 17th, and referred to me.

Hearings were had on June 17th, June 25th, and on July 21, 1909. At those hearings they produced the evidence of their Electrical Engineer, Mr. Elliott; their Division Superintendent of the Hudson and Putnam Division, Frederick T. Slack; the General Superintendent of the New York Central and Hudson River Railroad Company, Charles F. Smith; and the Division Engineer of the Putnam Division, Frank Stewart Hunt; all experienced railroad men, having had many years' service with this company. The evidence shows that the present system or method employed is what is known as the interlocking signals, which in brief is that it is impossible to operate this draw-bridge without proceeding in a predetermined and definite order, which provides that before the signals may be cleared for a train to proceed through the bridge, the bridge must be in its proper position and securely locked, and the proper signals all cleared for the movement of trains; and, if the draw-bridge is to be opened, the signals first must be set to indicate that fact, including the breakable or smash signal. The object of this latter signal is to act as a detector in case the engineer should run by the caution or stop signal. Those signals have to be operated by three different men, one on the draw-bridge, one on the tower at the south end of the bridge, and one by the bridge-man at the north end of the bridge. The personal element in one person is absolutely prevented. To open or close the draw it is necessary for each one of these three persons to act, and it is impossible for any one of them to operate their levers until certain movements are made by the others.

The evidence showed that during all of the time that this system has been in operation there has never been a failure on the part of the employees of the company passing the caution or stop signal, and that the smash signal has never been touched by an engine.

It was also shown that the rules of the company required the trains to come to a stop on both sides of this bridge, and that the northbound trains are not allowed to proceed from the 155th Street station until the signals shall show that the bridge is set in its proper position and is clear for trains.

The special reason given by the railroad company for their application to be relieved from the installation of the derailing system at both ends of the bridge is on account of the physical situation and construction at this point, claiming by their witnesses that it would add a further element of danger, which did not exist at the present time.

The approach to this bridge from the south is over an elevated structure which is about thirty-five feet from the ground, and if a derailment should occur, there would be the danger of throwing the engine and train into the street or the river at the approach to the draw-bridge, which might be more dangerous than the open draw. The approach to the draw-bridge from the north is from an embankment high enough to allow the crossing over the tracks of the Spuyten Duyvil and Port Morris Railroad, operated by the main line of the New York Central Railroad, and a derailing device on this track

would be very likely to throw the train down the embankment upon the tracks of this other road, if not upon a moving train.

They submitted also photographs which showed the situation at these places very clearly.

In addition to the evidence taken, I personally visited the bridge, and saw the operation of the interlocking system, and also the system employed by the Interborough Rapid Transit Company on the bridge over the Harlem River at the end of Second Avenue, which is a system similar to the one now in use on the Putnam bridge, known as the interlocking system; and, after an examination of the workings of these two bridges and the evidence submitted by the New York Central and Hudson River Railroad Company on this application, I am of the opinion that the installation of the derailing system at the approaches of the draw-bridge over the Harlem River, on the Putnam Division, would not add anything to the safety of the operation at that point, and might be an element of additional danger.

I would therefore recommend that the company's application for the omission of the derails at this point be granted.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the Application of the NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY as to the installation of derails on its Putnam Division crossing Harlem River.</p>	<p style="text-align: right;">Case No. 1147 Order Granting Applica- tion August 3, 1909.</p>
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The Board of Railroad Commissioners of the State of New York having, on January 29, 1907, made certain recommendations as to the protection at draw-bridges on steam railroads, recommending that the draws must be protected by derails, the derails to be located wherever practicable not less than 500 feet from the end of the draw, and the said recommendations having been made to and served upon the New York Central and Hudson River Railroad Company, and the said New York Central and Hudson River Railroad Company having made application in writing dated June 9, 1909, for the omission of the derails at the draw-bridge over the Harlem River on its Putnam Division, and a hearing having been directed upon said matter, to be held on June 17, 1909, and hearings having been held before Mr. Commissioner Eustis on June 17, 1909, and June 25, 1909, and on July 21, 1909, and the report of Mr. Commissioner Eustis thereon having been filed, it is

Ordered: That the permission and approval of the Public Service Commission for the First District be and the same hereby is given to the exception, from the requirements of the said recommendations made by the Board of Railroad Commissioners of the State of New York to the New York Central and Hudson River Railroad Company on January 29, 1907, of derails at the draw-bridge on the Putnam Division of the New York Central and Hudson River Railroad Company crossing Harlem River; it is further

Ordered: That this order shall take effect immediately.

New York Central and Hudson River Railroad Company.—

Application for approval of extension of time for completing work of depressing the tracks and constructing the viaduct and bridges in connection with improvements at 42d Street terminal.

Case No. 1182

Hearing Order

Opinion of the Commission

Resolution granting application

The company, on December 15, 1909, petitioned the Commission for its approval of an extension of time for the completion of the work of depressing the tracks and constructing the viaduct and bridges in connection with the improvements at the 42d Street terminal, pursuant to an agreement between the City of New York and the New York Central and Hudson River Railroad Company and the New York and Harlem Railroad Company. The Commission, on December 15th, directed (see blank form of hearing order, page 9) that a hearing be had on said application on December 24th, and that the company publish due notice thereof. Hearings were held on December 24th, 28th and 30th.

OPINION OF THE COMMISSION.

(Adopted December 31, 1909.)

COMMISSIONER EUSTIS:—

When the application for the approval of the agreement between the city and the railroad company was received, a hearing order was adopted so that notice could be given to the public, and pursuant to such hearing order and notice three hearings have been had, and a large number of property owners in the neighborhood of the New York Central yards, between 42d and 56th Streets, have appeared in opposition.

The agreement that the Commission is asked to approve between the city and the railroad company is in brief an extension of time to complete their improvements at their 42d Street terminal.

Under the act of the legislature, pursuant to which this work is being done, they were given five years' time within which to do the work, which time would have expired July 1, 1908. After the work was well under way changes and alterations were made, which largely increased the volume of work to be done, and prior to the termination of the five years, or early in 1908, the railroad company went to the legislature for an extension, and asked that the extension be made for five years. This was opposed by the property owners, so that when the act was finally passed for the extension it provided that extensions could be granted by the city for periods not to exceed eighteen months, providing those extensions were approved by the Public Service Commission for the First District.

It was shown at the hearing by the property owners that they were greatly inconvenienced by the long delay; that their property was damaged and that there was some serious risk from fire on account of the cross streets from 50th Street north being blocked off at the present time so that the property to the west of the Park Avenue depression could not receive aid from the fire-house to the east.

The objectors at the second hearing concentrated their objections upon the non-completion of the cross streets from 50th Street north, and produced testimony from an engineer claiming that the work could be sufficiently advanced in that section to complete those bridges within three or four months. The engineers for the railroad company stated that this was not possible, and do the work safely; that it would take at least until October to complete one bridge, November 1st the second bridge, and that they thought by January 1, 1911, the work would be so far advanced that the 45th Street bridge would be completed; that they were not willing to promise to do more than this, although they might get the first bridges in a little earlier; that their first consideration was traffic and the safety of the traveling public; that at the present time they were handling about on the average of 70,000 passengers a day at this terminal, and it was necessary to keep sufficient tracks in use to keep those trains moving; and that at the present time they were making as high as eighty-two movements in an hour over two tracks, and that for sixteen hours of the day they averaged over these two tracks fifty-eight movements, many of them long trains. The engineer produced by the property owners said, in referring to the manner in which the railroad company were doing their work, "I wish to say it is a splendid piece of work. I have nothing but praise to say for the engineers who did it." Some of the objectors at the hearing stated that the work had progressed far more rapidly during the past six months than it had in the early stages, so that there was no evidence against the railroad company of having delayed during the last extension.

The property owners' request that this Commission should refuse their approval in order to compel the railroad company to again go to the Board of Estimate for another extension, whereby they might have a hearing before the Board of Estimate and secure from the Board of Estimate some relief that this Commission has not power to grant, if granted, would place the responsibility of stopping this great improvement upon this Commission. All of the property owners represented stated that the work must go on, and, naturally, if it is to go on, should do so legally, and, unless this agreement between the city and the railroad company is approved at once, it cannot proceed legally, as the time to complete expires to-day, unless the extension agreement is approved. I think this Commission should not withhold its approval to this agreement. The company are justly censurable for delaying this application until the time had nearly expired, and they should be advised now that hereafter if they should need further extensions of time to complete this improvement, this Commission will expect the matter to be brought before it in time to give ample opportunity for due consideration before granting its approval.

I would therefore recommend a resolution approving the agreement.

Thereupon the Commission on December 31, 1909, adopted the following resolution:

WHEREAS, Pursuant to the authority conferred by chapter 403 of the Laws of 1908, the Board of Estimate and Apportionment of the City of New York, by resolution adopted on the 10th day of December, 1909, extended the time for the completion of the work of depressing the tracks and constructing the viaducts or bridges provided for in chapter 425 of the Laws of 1903, as amended by chapter 639 of the Laws of 1904, and in the several agreements executed pursuant to the provisions of the said acts made by and between the City of New York, the New York and Harlem Railroad Company, and its lessee, the New York Central and Hudson River Railroad Company, from the thirty-first day of December, 1909, to the thirtieth day of June, 1911, such extension being evidenced by an instrument in writing by and between the City of New York, the New York and Harlem Railroad Company, and its lessee, the New York Central and Hudson River Railroad Company, dated the 13th day of December, 1909, which said instrument in writing has been duly submitted to this Commission for its approval; and

WHEREAS, Pursuant to the said chapter 403 of the Laws of 1908, such extension does not become effective until approved by this Commission.

Now, Therefore, after due public notice and public hearing,

Resolved, That such extension of time be and the same is hereby approved; and

Resolved, That this approval be evidenced by indorsing upon it or annexing to the said instrument in writing a copy of the foregoing resolution duly certified under the seal of the Commission by the Secretary of the Commission.

In voting against the above resolution, the Chairman made the following statement:

"I believe the application should not be granted at this time without conditions, and it seems impossible to attach conditions owing to the short time that we have had to consider the matter. I feel that we ought to send the application for extension back to the Board of Estimate and Apportionment, in order that in a matter of such importance conditions could be attached to the extension of time to eighteen months. I believe the time has come when, although the New York Central Railroad is doing a great work, it should have regard for the property rights of others, as well as for its own, and I therefore vote against the extension."

In voting for the above resolution Commissioner Bassett made the following statement:

"I vote 'Aye' but in so voting I would be in favor of attaching conditions if it were possible to do so under the special Act pursuant to which this work is going on."

Applications as to Grade Crossings.

City of New York.— Application to determine whether First Street, Second Street and Third Street, Borough of Queens, should pass over, under or at grade of tracks of Long Island Railroad Company.

In the Matter of the Application of THE CITY OF NEW YORK relative to opening across the tracks of the Northside Division of the Long Island Railroad Company the following streets: FIRST STREET, between Thomson Avenue and Jackson Avenue, SECOND AVENUE, between Woodside Avenue and Jackson Avenue, and THIRD STREET, between Thomson Avenue and Jackson Avenue in the Borough of Queens, City of New York.
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Order of Discontinuance
under Hearing Order
No. 230-a.
May 21, 1909.

An order for hearing, known as Order No. 230-a, having been duly made by the Commission February 4, 1908, for the purpose of hearing an application made by The City of New York under section 61 of the Railroad Law to this Commission to determine whether certain proposed new streets should pass over, or under, or at grade of the tracks of the Northside Division of the Long Island Railroad Company; and it appearing before the date set for the said hearing that the applicant, The City of New York, desired an adjournment of the said hearing pending the final preparation of maps by the engineers of the Board of Estimate and Apportionment and by the engineers of the Long Island Railroad Company, and the said applicant having advised the Commission that the said final maps had not yet been prepared and that this proceeding could not properly be continued at the present time, and having consented to the discontinuance of this proceeding, now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission; and it is further

Ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by the application of The City of New York by Hearing Order No. 230-a, or by the proceedings thereon.

Further Ordered, That a copy of this order be served on The City of New York and on the Long Island Railroad Company.

City of New York.—Application to determine whether Grout Avenue between Greenpoint Avenue and Fisk Avenue, Second Ward, Borough of Queens, should pass over, under or at grade of tracks of Long Island Railroad Company.

In the Matter
of the

Application of THE CITY OF NEW YORK relative to opening across the tracks of the Flushing and Northside Division of the LONG ISLAND RAILROAD COMPANY the following street:

GROUT AVENUE, between Greenpoint Avenue and Fisk Avenue, Second Ward, Borough of Queens, City of New York.

Order of Discontinuance
under Hearing Order
No. 230-b
May 21, 1909.

An order for hearing, known as Order No. 230-b, having been duly made by the Commission on February 4, 1908, for the purpose of hearing an application made by The City of New York under section 61 of the Railroad Law to this Commission to determine whether a certain proposed new street should pass over, or under, or at grade of the tracks of the Flushing and Northside Division of the Long Island Railroad Company; and it appearing before the date set for the said hearing that the applicant, The City of New York, desired an adjournment of the said hearing pending the final preparation of maps by the engineers of the Board of Estimate and Apportionment and by the engineers of the Long Island Railroad Company, and the said applicant having advised the Commission that the said final maps had not yet been prepared and that this proceeding could not properly be continued at the present time, and having consented to the discontinuance of this proceeding, now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission; and it is further

Ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by the application of The City of New York by Hearing Order No. 230-b, or by proceedings thereon.

Further Ordered, That a copy of this order be served on The City of New York and on the Long Island Railroad Company.

City of New York.—Application to determine whether Sixth Street and Seventh Street, Borough of Queens, should pass over, under or at grade of tracks of Long Island Railroad Company.

In the Matter
of the

Application of THE CITY OF NEW YORK relative to opening across the tracks of the Northside Division of the LONG ISLAND RAILROAD COMPANY the following streets:
SIXTH STREET, between Thomson Avenue and Seventh Street, and
SEVENTH STREET, between Thomson Avenue and Jackson Avenue, Second Ward, in the Borough of Queens, City of New York.

Order of Discontinuance
under Hearing Order
No. 230-c
May 21, 1909

An order for hearing, known as Order No. 230-c, having been duly made by the Commission February 4, 1908, for the purpose of hearing an application made by The City of New York under section 61 of the Railroad Law to this Commission to determine whether certain proposed new streets should pass over, or under, or at grade of the tracks of the Northside Division of the Long Island Railroad Company; and it appearing before the date set for the said hearing that the City of New York desired an adjournment of the said hearing pending the final preparation of maps by the engineers of the Board of Estimate and Apportionment and by the engineers of the Long Island Railroad Company and the said applicant having advised the Commission that the said final maps had not yet been prepared and that this proceeding could not properly be continued at the present time, and having consented to the discontinuance of this proceeding, now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission, and it is so ordered.

Ordered, That this order be and it is hereby so ordered that no further hearing be had on the application of the City of New York in any of the matters covered by the application of the City of New York by Hearing Order No. 230-c or by the proceedings thereon.

Witness my hand and seal of the Commission at the City of New York and on the Long Island Railroad Company

City of New York.—Application to determine whether proposed street known as Hegeman Avenue should pass over or under or at grade of tracks of Long Island Railroad Company and the Brooklyn Union Elevated Railroad Company.

In the Matter
of the

Application of THE CITY OF NEW YORK relative to opening across the tracks of the Manhattan Beach Branch of the LONG ISLAND RAILROAD COMPANY and the BROOKLYN UNION ELEVATED RAILROAD COMPANY the following street:
HEGEMAN AVENUE, between East 98th Street and New Jersey Avenue, in the Borough of Brooklyn, City of New York.

Order Abrogating Hearing Order No. 230-d.
May 21, 1909.

A Hearing Order No. 230-D having been adopted by this Commission February 4, 1908, and having been duly served on the Brooklyn Union Elevated Railroad Company, on the Long Island Railroad Company and on The City of New York on February 7, 1908; and it appearing that the date fixed for the said hearing, namely, February 20, 1908, did not give sufficient time for service of notice of said hearing upon the property owners interested; and a second Hearing Order No. 230-D1 having been duly adopted by the Commission on March 24, 1908, for the purpose of hearing the said application of The City of New York; and a hearing and final determination having been duly had pursuant to said Hearing Order No. 230-D1; and no hearing having been held and no determination having been made under Hearing Order No. 230-D;

Now, therefore, it is

Ordered, That said Hearing Order No. 230-D, adopted February 4, 1908, be and the same hereby is in all respects abrogated without prejudice to any order, hearing or action or proceedings had under the application of The City of New York on which the said hearing order was based.

City of New York.—Application to open 234th Street across tracks of the New York Central and Hudson River Railroad Company.

Case No. 278

Hearing Order

This proceeding was begun in 1908 upon the application of the City of New York to determine whether a certain proposed street, namely, West 234th Street, should pass over or under or at grade of the tracks of the New York Central and Hudson

River Railroad Company. An order was issued in 1908 by the Commission directing a hearing, but as there was not sufficient time to notify the interested property owners, no hearing was held under said order. Subsequently, on April 12, 1909, the Commission directed (see blank form of hearing order, page 9) that a hearing be held on said application on April 29th. Hearings were held May 6 and 21, 1909, when the proceeding was closed pending the institution by the city authorities of proceedings for the opening of the street by condemnation.

City of New York.—Application to open Chester Street, between East 98th Street and Riverdale Avenue, Borough of Brooklyn.

Case No. 430.

This proceeding was begun in 1908 upon the application of the City of New York under section 61 of the Railroad Law to determine whether a certain proposed street, namely, Chester Street, between East 98th Street and Riverdale Avenue, in the Borough of Brooklyn, should pass over, under or at grade of the tracks of the Long Island Railroad Company. A hearing order was issued by the Commission in 1908 and hearings were held during that year and on February 4, 1909, and subsequently until December 8, 1909, when the matter was adjourned to February 8, 1910.

East River Terminal Railroad.—Application to determine the manner of crossing Wythe Avenue, Kent Avenue and North Fourth Street and the tracks of the Brooklyn Heights Railroad Company and Brooklyn Rapid Transit Company in Kent Avenue, in the Borough of Brooklyn.

Case No. 1102

Hearing Order
Opinion of the Commission
Resolution and Determination

The East River Terminal Railroad made application to the Commission, under sections 60 and 68 of the Railroad Law, to

determine the manner of crossing Wythe Avenue, Kent Avenue and North 4th Street, in the Borough of Brooklyn, and also to determine the manner of crossing the tracks of the Brooklyn Heights Railroad Company and the Brooklyn Rapid Transit Company. The Commission, on April 27, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said application on May 13th, and that the company publish due notice thereof. Hearing held May 13, 1909.

OPINION OF THE COMMISSION.

(Adopted June 8, 1909.)

COMMISSIONER BASSETT:—

The East River Terminal Railroad was incorporated as a steam railroad corporation for the purpose of building and maintaining a freight terminal on the easterly side of the East River in the Borough of Brooklyn, between North 3d Street and North 4th Street. On December 4, 1908, the Commission granted to this corporation its certificate of public convenience and a necessity. The route described in the certificate of incorporation lies between the East River and the middle of the block bounded by North 3d Street, Berry Street, North 4th Street and Wythe Avenue. After receiving the certificate of public convenience and a necessity the corporation applied to the Board of Estimate and Apportionment for a franchise to lay and maintain tracks in Kent Avenue, Wythe Avenue and a spur track across North 4th Street. This franchise was granted on the 15th day of March, 1909, and permits the company to build and maintain seven tracks across Kent Avenue, four tracks across Wythe Avenue and a single spur track on a curve across North 4th Street.

The company then properly applied to the Commission under section 60 of the Railroad Law for its determination as to whether such street crossings shall be under or over the proposed railroad. Public notice of a hearing on this question was duly published according to law. At the hearing no one appeared in opposition excepting the Pennsylvania Railroad Company, which owns and operates a freight yard between the East River and Kent Avenue in the same locality. The objections of the Pennsylvania Railroad Company were directed more especially to the granting of a certificate of permission and approval to the East River Terminal Railroad, but inasmuch as part of their objections have especial relation to the surface spur on North 4th Street it seems to me that it is right to consider the points made by counsel in this proceeding.

The method of operating the proposed freight terminal is to receive freight cars from the float. A float bridge connects the tracks on the land with the tracks on the float. The land level of this bridge is fixed at nearly average tide water. The distance from the bridge to Kent Avenue is 472 feet and the surface of Kent Avenue is 10.33 feet above the East River at mean high water. If the level of Kent Avenue should be sunk 4.33 feet and an overhead crossing for the tracks should be constructed with a clearance of 12 feet, a grade of 4.06 per cent would be necessitated. In the opinion of the engineers of the

Commission such a grade is prohibitive for this purpose. If the level of Kent Avenue should be raised 13.66 feet and the railroad tracks should be depressed so as to pass underneath the street, the grade of the street would be 5 per cent. Such a grade would be difficult or impossible of economical operation. And in addition the testimony shows that there would be constant danger of flooding the depressed tracks. The terminal yard itself would also need to be depressed in this case, which would require the trucking of goods to and from cars on a ramp.

At Wythe Avenue it is similarly impracticable to have the tracks either below or above the street level. The reason for this is that the distance from Kent Avenue to Wythe Avenue is 400 feet. If the tracks need to cross Kent Avenue at the street grade there is not space between Kent Avenue and Wythe Avenue to allow the tracks to go above or under that street without making grades that are practically prohibitive. Where cars are to be stored and switched it is desirable that grades should be eliminated so far as possible.

The single spur track crossing North 4th Street at a curve cannot be placed under or over North 4th Street if the Kent Avenue crossings are at the street level. The reason for this is that a prohibitive grade would be created. The counsel for the Pennsylvania Railroad Company proposes a plan by which this single spur track could be placed in another part of North 4th Street, the curve being made in the opposite direction, and it is claimed that by this change the spur track could be carried over North 4th Street at a sufficient elevation to allow vehicular traffic underneath and still not necessitate prohibitive grades. It is admitted, however, that the grade of this overhead crossing would be 4 per cent. It is also obvious that both approaches must take up space in the two blocks, one north and one south of North 4th Street, and this space where the track would gradually rise to the overhead street crossing would detract materially from the available space within the storage yards. While it is regrettable that any of these tracks must be allowed to cross the street surface in this locality, it must be conceded, I think, that either the business of the terminal railroad must be confined to the small space between the East River and Kent Avenue or else these street surface crossings must be allowed. We have considered the alternative of large elevators and of every other practical expedient but in every case the counsel of the experts of the Commission has shown the plan to be unworkable or at present inadvisable. The franchise for the use of the public streets continues for fifteen years with the privilege of an extension of ten years more. Should the character of this part of the city change, or should the development of this part of the city demand a different arrangement in the future, it will be possible for the city to bring it about.

My opinion therefore is that it is impracticable for the proposed railroad tracks on either Kent Avenue, Wythe Avenue or North 4th Street to be so constructed that the streets will cross over or under the tracks. This being the case the law itself provides that the corporation shall be allowed to build and maintain them at the grade of these streets. Notice of this determination should be communicated to all parties to whom notice of the hearing in said proceedings was given or who appeared at said hearing by counsel or in person.

Thereupon the Commission adopted the following resolution:

In the Matter
of the

Application of the EAST RIVER TERMINAL RAILROAD, under sections 60 and 68 of the Railroad Law, to determine the manner of crossing Wythe Avenue, Kent Avenue and North 4th Street, in the City of New York, Borough of Brooklyn, by certain tracks of the proposed railroad of said EAST RIVER TERMINAL RAILROAD, and also to determine the manner of crossing the tracks of the BROOKLYN HEIGHTS RAILROAD COMPANY and the BROOKLYN RAPID TRANSIT COMPANY now in said Kent Avenue, and to fix the proportionate expense of such crossing to be paid by said EAST RIVER TERMINAL RAILROAD, the said BROOKLYN HEIGHTS RAILROAD COMPANY and the said BROOKLYN RAPID TRANSIT COMPANY.

Case No. 1102
Determination under Sections 60 and 68 of the Railroad Law.
June 8, 1909.

An application having been duly made to the Public Service Commission for the First District by the East River Terminal Railroad Company under sections 60 and 68 of the Railroad Law, to determine the manner of crossing Wythe Avenue, Kent Avenue and North 4th Street, in the City of New York, Borough of Brooklyn, by certain tracks of the proposed railroad of the said East River Terminal Railroad, and also to determine the manner of crossing the tracks of the Brooklyn Heights Railroad Company and the Brooklyn Rapid Transit Company now in said Kent Avenue, and to fix the proportionate expense of such crossing to be paid by said East River Terminal Railroad, the said Brooklyn Heights Railroad Company and the said Brooklyn Rapid Transit Company, and thereupon a resolution having been duly passed by the Commission on April 27, 1909, directing that a hearing on said application be had on May 13, 1909, and that a notice of said hearing be given to said East River Terminal Railroad, said Brooklyn Heights Railroad Company and said Brooklyn Rapid Transit Company, by service upon each of them of a copy of said resolution, and that notice of said hearing be given to the City of New York, the municipal corporation having jurisdiction over said streets, avenues or highways proposed to be crossed by said East River Terminal Railroad, by service of a copy of said resolution on the Mayor, on the Board of Estimate and Apportionment and on the Corporation Counsel, and that public notice of said hearing be given in the Brooklyn Times and the Brooklyn Standard Union, two newspapers published in the locality affected by the application, to wit, in the City of New York, Borough of Brooklyn, by publication thereof in each of said newspapers once a week for two successive weeks, and proof of such publication and the service of notice as in said resolution provided having been duly filed with the Secretary of the Commission, and said hearing having been duly held on the 13th day of May, 1909, before Mr. Commissioner Bassett, Mr. Henry F. Cochrane, of counsel for the East River Terminal Railroad, Mr. A. M. Williams, of

counsel for the Brooklyn Heights Railroad Company, Mr. George D. Yeomans, of counsel for the Brooklyn Rapid Transit Company, and Messrs. Robinson, Biddle and Benedict, counsel for the Pennsylvania Railroad Company, appearing, and the Commission being satisfied after said hearing that it is impracticable for said tracks of said East River Terminal Railroad to cross said Wythe Avenue, Kent Avenue and North 4th Street, except at grade of said avenues and street and of the existing railroad on Kent Avenue, and it appearing that said East River Terminal Railroad is willing and prepared to defray the entire expense of crossing the tracks of the Brooklyn Heights Railroad Company and the Brooklyn Rapid Transit Company now in Kent Avenue; it is

Resolved and Determined:

1. That it is impracticable for the said railroad of the East River Terminal Railroad to be constructed over or under said Wythe Avenue, Kent Avenue and North 4th Street, so as to avoid public crossings at grade of said avenues and street.

2. That said railroad of said East River Terminal Railroad shall be constructed across the tracks of the said Brooklyn Heights Railroad Company and Brooklyn Rapid Transit Company at grade of such railroad tracks now in Kent Avenue.

3. That the entire expense of crossing the said tracks of the Brooklyn Heights Railroad Company and the Brooklyn Rapid Transit Company now in Kent Avenue be defrayed by the said East River Terminal Railroad.

Long Island Railroad Company.— Application for an order directing the closing and discontinuance of the Calamus Road Crossing in the Borough of Queens.

Case No. 1130

Hearing Order

Approval Order

The company, on July 1, 1909, petitioned the Commission praying for an order directing the closing and discontinuance of the grade crossing known as the Calamus Road Crossing near Winfield Station, in the Borough of Queens, and directing that the travel thereon be diverted to the existing overhead crossing at Grand Street by means of a proposed new highway to be constructed by the company. The Commission, on July 13, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on said petition on August 17th, and that the company give notice to owners of adjoining lands and also publish due notice thereof. Hearings were held on August 17th and subsequently until October 11, 1909.

In the Matter
of the
Application of THE LONG ISLAND RAILROAD
COMPANY under section 62 of the Railroad
Law for an order directing the closing and dis-
continuance of the grade crossing known as
Calamus Road Crossing in the Borough of
Queens, City of New York, and directing the
diversion of travel thereon to the existing over-
head crossing at Grand Street.

Case No. 1130
Order Granting Applica-
tion
December 28, 1909.

The Long Island Railroad Company having made application to this Commission pursuant to the provisions of section 62 of the Railroad Law, by written petition dated July 1, 1909, for an order of this Commission directing the closing and discontinuance of Calamus Road Crossing in the Borough of Queens, in the City of New York, and directing the diversion of travel thereon to the existing overhead bridge at Grand Street by means of a proposed new highway; and a hearing having been had upon said application on August 17, August 23, September 20, October 4 and October 11, 1909, before Commissioner Bassett presiding, H. M. Chamberlain, Esq., appearing for the Commission, and Joseph F. Keany, Esq., appearing for the Long Island Railroad Company; and testimony having been taken upon said hearing; and said company having stipulated in its petition and upon the hearing that it would furnish the necessary land for the proposed new street and cede same to the City of New York, and would bear at its sole expense the cost of grading the proposed new street; and the Commission having determined after the proceedings on said hearing that the application of the company should be granted subject, however, to the conditions herein mentioned, now, therefore, it is

Ordered,

I. That said Calamus Road Crossing be closed and discontinued.

II. That the traffic thereon be diverted to the overhead crossing on Grand Street by means of a new street to be constructed between the present Calamus Road and Grand Street.

III. That a new street shall be constructed between the present Calamus Road and Grand Street which new street shall be located and constructed substantially as indicated in yellow on the map accompanying the application of the railroad company herein and as shown colored in yellow on drawing entitled "Map relating to petition of the Long Island Railroad Co. for the closing of Calamus Road Crossing No. 28, 2d Ward, Borough of Queens", which drawing was marked Exhibit No. 3 on hearing had on October 11, 1909; that said new street be constructed as follows: Said street shall be sixty feet wide between building lines and located to conform to the lines contemplated for Calamus Avenue as shown on the tentative map of the street layout prepared by the Topographical Bureau of the Borough of Queens, commencing at the westerly building line of Grand Street at the present elevation of said street and proceeding westwardly with an embankment twenty-eight feet wide at the top and full width of the street at the bottom where so directed, and descending with a 5 per cent grade or less westwardly to an intersection with the present surface of

Calamus Road at a point about 440 feet westwardly from Grand Street, this embankment to be properly crowned and rolled, covered by a layer of gravel or fine stone and protected on the sides by guard railings all as may be directed; plans and specifications of such work and an estimate of the expense thereof to be submitted to and approved by this Commission before the letting of any contract; and such work to be done subject to the supervision and approval of this Commission, and subject to final approval of this Commission after the completion thereof.

This order is made subject to the following conditions:

(1) That said company shall at its own expense procure to be granted and conveyed to the City of New York, such lands, rights or easements as may be necessary or required for carrying out the provisions of this order, the nature of the estate granted and the manner and form of such grant or conveyance to be acceptable to and accepted by the City of New York; and said company shall file with the Commission proof of the acceptance by the city of such grant or conveyance.

(2) That said company shall bear at its sole expense the cost of the entire construction work contemplated by this order.

IV. *It is further ordered*, That this order in so far as it directs the construction of a new street between the present Calamus Road and Grand Street shall take effect upon the filing with this Commission of proof of the acceptance by the City of New York of the grant or conveyance of lands, rights or easements hereinbefore mentioned.

V. *It is further ordered*, That this order in so far as it directs the closing and discontinuance of Calamus Road Crossing and the diversion of travel thereon to the overhead crossing on Grand Street shall take effect only after completion of the aforesaid work and upon the final formal approval of said work by this Commission; and said Calamus Road Crossing shall not be closed or discontinued, nor shall the gates at said crossing be removed or the use thereof discontinued till after the new street and the guard railings thereon herein directed to be constructed shall have been completed in accordance with the requirements of this order and shall have been approved by this Commission as herein stated.

VI. Nothing herein contained shall be construed as an approval by this Commission of the grade of Grand Street, of the construction or use of the bridge now being constructed over the railroad tracks at Grand Street or of the grade thereof, or as an approval by the Commission of the construction or use by said company at this point of any railroad track or tracks in addition to those now in use thereat by said company.

VII. *It is further ordered*, That this order be filed in the office of the Commission and that a certified copy thereof be served on the Long Island Railroad Company and that copies thereof be mailed to all parties to whom notice of the hearing in this proceeding was given or who appeared at the hearing herein by counsel or in person.

Short Notice Tariff Orders.—Special Permissions.

Pursuant to the provisions of Public Service Commissions Law, Section 29, orders granting permission to companies to put into effect changes in schedules, rates, fares or charges, or joint rates within less than thirty days after publication at stations and filing with the Commission were issued in substantially the following form:

In the Matter
of
Filing on Short Notice by the.....
.....Company of.....
in regard to.....

} Special Permission No. — .

Whereas, the.....Company, by....., its, has made application in writing to this Commission under date of....., 1909, for permission to within days after publication at stations and filing with this Commission,
Now, upon motion made and duly seconded, it is
Resolved: That permission be and is hereby granted to, the Company to put into effect days after publication at stations and filing with this Commission the above mentioned.

SPECIAL PERMISSIONS ISSUED IN 1909.

Special Permis- sion No. (Case No.)	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
1043	Jan. 19	Baltimore and Ohio Rail- road Company	Tariff P. S. C. 1 N. Y. No. 10, car service rules and regulations	1
54	May 11	Bronx Gas and Electric Company	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing changes in form of contract "Store Lighting Service" to read "Commercial Lighting Service"; term of contract to be left blank, also re- duction in charges for multiple arc light- ing service — short term	1
69	June 20	Bronx Gas and Electric Company	Supplement No. 2 to schedule P. S. C. 1 N. Y. No. 1, contain- ing new form of con- tract for power serv- ice	1

170 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
64	June 4	Brooklyn Heights Railroad Company	Supplement No. 3 to tariff P. S. C. 1 N. Y. No. 1, containing reductions in charges for chartered cars...	1
67	June 11	Brooklyn Heights Railroad Company	Supplement No. 4 to tariff P. S. C. 1 N. Y. No. 1, containing change in route of portion of cars operated on Graham Avenue line	3
71	July 2	Brooklyn Heights Railroad Company	Supplement No. 5 to tariff P. S. C. 1 N. Y. No. 1, establishing extension in route of the 39th St. Ferry- Fort Hamilton line..	1
74	July 13	Brooklyn Heights Railroad Company	Supplement No. 6 to tariff P. S. C. 1 N. Y. No. 1, covering run-on and run-off trips of various lines on which fares are collected	3
93	Nov. 23	Brooklyn Heights Railroad Company	Amendments to P. S. C. 1 N. Y. No. 2, estab- lishing transfer privi- lege between 65th Street — Bay Ridge Avenue line and the West End line of the Nassau Electric R. R. Co.	12
95	Nov. 23	Brooklyn Heights Railroad Company	Amendment to tariff P. S. C. 1 N. Y. No. 2, covering run-on and run-off trips of the Montague Street line on which fares are to be collected.....	8
96	Nov. 23	Brooklyn Heights Railroad Company	Amendment to tariff P. S. C. 1 N. Y. No. 2, covering the shuttle operation of the rail- road extension on Nostrand avenue from Flatbush avenue to Kings highway	8

ORDERS OF THE COMMISSION ISSUED IN 1909.

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Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
76	July 13	Brooklyn, Queens County and Suburban Railroad Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, covering run-on and run-off trips of various lines on which fares are collected	3
63	May 28	Brooklyn Union Elevated Railroad Company	Joint passenger tariff P. S. C. 1 N. Y. No. 2 in connection with the Long Island R. R. Co., containing fares for season of 1909	2
89	Sept. 24	Brooklyn Union Elevated Railroad Company	Amendment to tariff P. S. C. 1 N. Y. No. 2, containing joint pas- senger fares in con- nection with the Long Island Railroad Com- pany	1
44	Feb. 26	Central Park, North and East River Railroad Com- pany	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, containing free transfer privi- lege at 59th street and 10th avenue with north and south cars of 10th avenue branch of 42d Street, Manhattanville & St. Nicholas Avenue Rail- way Company	3
52	May 11	Coney Island and Brooklyn Railroad Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, containing an extension of the fare privilege at Kings highway, also 9th avenue and 9th street on Smith Street line, or Flat- bush avenue and Mal- bone street on Frank- lin Avenue line	3
68	June 15	Coney Island and Gravesend Railroad Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, opening up the Sheepshead Bay- Brighton Beach line.	3

172 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
58	May 21	Edison Electric Illuminating Company of Brooklyn....	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing reduction in charges for Tungsten lamps	12
61	May 28	Edison Electric Illuminating Company of Brooklyn....	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing changes in form of contract for pre- payment meter	10
85	Sept. 10	Edison Electric Illuminating Company of Brooklyn....	Supplement No. 2 to schedule P. S. C. 1 N. Y. No. 1, contain- ing form of contract covering rates for use in connection with exhibition or decora- tive lighting on ac- count of the Hudson- Fulton Celebration .	10
60	May 25	Interborough Rapid Transit Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, containing additional transfer points to lines of New York City Inter- borough from its sub- way division	5
78	Aug. 3	Interborough Rapid Transit Company	Supplement No. 2 to tariff P. S. C. 1 N. Y. No. 1, containing changes in transfer points between lines of the Interborough Rapid Transit Com- pany and New York City Interborough Railway Company ..	3
(Case No.) 1052	Jan. 20	Long Island Railroad Com- pany	Supplement No. 3 to its official classifica- tion P. S. C. 1 N. Y. No. 112, reducing rate on porcelain and chinaware in boxes, from first to second class	1

ORDERS OF THE COMMISSION ISSUED IN 1909.

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Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
(Case No.) 1060	Feb. 5	Long Island Railroad Com- pany	Tariff P. S. C. 1 N. Y. No. 121, establishing rates on ashes, street sweepings and rub- bish not including garbage or any offen- sive material from sundry stations to Sheepshead Bay	1
41	Feb. 16	Long Island Railroad Com- pany	Supplement No. 4 to official express class- fication P. S. C. 1 N. Y. No. E-17, con- taining sundry changes in classifica- tion	10
46	March 12	Long Island Railroad Com- pany	Tariff P. S. C. 1 N. Y. No. 123, containing rates on ashes, street sweepings and rub- bish not including garbage or any offen- sive material between sundry stations	1
73	July 13	Long Island Railroad Com- pany	Tariff P. S. C. 1 N. Y. No. 131, containing rate on broken stone, Blissville Docks and L. I. City, N. Y., to Elmhurst, Hopedale and Jamaica, N. Y. . . .	1
77	Aug. 3	Long Island Railroad Com- pany	Supplement No. 3 to tariff P. S. C. 1 N. Y. No. 124, raising the embargo on carload freight, Pier No. 32, East river, N. Y. . . .	3
79	Aug. 3	Long Island Railroad Com- pany	Supplement No. 1 to official express class- ification P. S. C. 1 N. Y. No. E-30, contain- ing rule as to return- ing free empty milk and cream cans.	1
82	Aug. 3	Long Island Railroad Com- pany	Tariff P. S. C. 1 N. Y. No. 135, containing rate on broken stone from Blissville Docks and Long Island City, N. Y., to Winfield, N. Y.	1

174 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
83	Aug. 3	Long Island Railroad Com- pany	Supplement No. 2 to official express class- fication P. S. C. 1 N. Y. No. E-30, amend- ing the classification as to moving picture films	1
91	Oct. 8	Long Island Railroad Com- pany	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 128, containing commodity rates from Ozone Park and Woodhaven Junction, N. Y., to Long Island City and Pier 32, East river, N. Y....	*
72	July 2	Nassau Electric Railroad Company	Supplement No. 2 to tariff P. S. C. 1 N. Y. No. 1, containing ex- tensions in routes of the Church Avenue and 39th Street Ferry- Coney Island lines...	1
75	July 13	Nassau Electric Railroad Company	Supplement No. 3 to tariff P. S. C. 1 N. Y. No. 1, containing run-on and run-off trips of various lines	3
94	Nov. 23	Nassau Electric Railroad Company	Supplement No. 2 to tariff P. S. C. 1 N. Y. No. 2, establishing transfer privileges between their West End line and the 65th Street — Bay Ridge Avenue line of B. H. R. R. Co.....	12
(Case No.) 1044	Jan. 22	New York Central and Hud- son River Railroad Com- pany	Supplement No. 3 to tariff P. S. C. 1 N. Y. No. 92, rate on porce- lain and chinaware in boxes, from first to second class.....	3
(Case No.) 1063	Feb. 9	New York Central and Hud- son River Railroad Com- pany	Tariff P. S. C. 1 N. Y. No. 31, honoring school tickets on Lin- coln's Birthday, Feb- ruary 12, 1909.....	1

* Less than statutory notice, to take effect November 1, 1909.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
45	March 9	New York Central and Hud- son River Railroad Com- pany	Supplement No. 1 to P. S. C. 1 N. Y. No. 96, containing clause reading " Governed by the current Offi- cial Classification P. S. C. 1 N. Y. No. 92, and exceptions thereto, P. S. C. 1 N. Y. No. 84 and supplements thereto, or superseding issues thereof."	*
62	May 28	New York Central and Hud- son River Railroad Com- pany	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 108, containing changes in yardage and lighterage rules.	**
65	June 8	New York Central and Hud- son River Railroad Com- pany	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 33, containing special one way fares between Grand Cen- tral Station and High Bridge, Morris Heights and Univer- sity Heights	?
92	Nov. 23	New York Central and Hud- son River Railroad Com- pany	Freight circular P. S. C. 1 N. Y. No. 135. containing rules gov- erning furnishing of temporary doors or bulkheads for fruits and vegetables, in bulk, in carloads....	1
57	May 21	New York City Interborough Railway Company	Supplement No. 3 to tariff P. S. C. 1 N. Y. No. 1, containing changes in routes, also additional trans- fer points to the Broadway subway di- vision of Interbor- ough Rapid Transit Company	5

* On less than statutory notice to become effective March 11, 1909.

** Less than statutory notice to become effective June 18, 1909.

176 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
56	May 21	New York Edison Company..	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, correct- ing errors in charges on Tungsten lamps..	1
66	June 8	New York Edison Company..	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, correct- tion in selling price of Tantalum lamps..	*
86	Sept. 10	New York Edison Company..	Supplement No. 2 to schedule P. S. C. 1 N. Y. No. 1, contain- ing form of contract covering rates for use in connection with exhibition or decora- tive lighting on ac- count of Hudson-Ful- ton celebration	10
86 (amended.)	Sept. 14	New York Edison Company..	Supplement No. 2 to schedule P. S. C. 1 N. Y. No. 1, contain- ing form of standard contract rider (Bronx District only) for users of direct cur- rent in alternating current districts	5
90	Oct. 1	New York Edison Company..	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing form of standard contract rider for re- tail lighting	5
97	Nov. 26	Official Classification Com- mittee	Supplement No. 2 to official classification P. S. C. 1 N. Y. O. C. No. 35, containing amended sections 4, 7, 10 and 11 of rule 2-B, allowing shippers to use certain pulp- board and fibre-board boxes; also classifica- tion of Shredded Whole Wheat Biscuit	15

* On less than statutory notice.

ORDERS OF THE COMMISSION ISSUED IN 1909. 177

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
42	Feb. 19	Richmond Light and Rail- road Company	Tariff P. S. C. 1 N. Y. No. 2, containing all effective changes, and superseding No. 1, filed February 1, 1909	5
53	May 18	Second Avenue Railroad Com- pany	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, containing ex- tension notice of the then existing 86th Street route	3
(Case No.) 1010	Jan. 19	Second Avenue Railroad Company	Tariff P. S. C. 1 N. Y. No. 1, rate of fare to be charged .....	.1
70	June 25	South Brooklyn Railway Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 1, establishing opening up service between Culver Ter- minal, Coney Island and Norton's Point, Sea Gate	2
81	Aug. 3	South Brooklyn Railway Company	Supplement No. 7 to official classification P. S. C. 1 N. Y. No. 21, cancellation no- tice	10
(Case No.) 1054	Jan. 29	South Brooklyn Railway Company	Supplement No. 3 to official classification P. S. C. 1 N. Y. No. 21, reducing rate on porcelain and china- ware in boxes, from first to second class.	1
48	March 12	Staten Island Rapid Transit Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 6, containing fares on tickets in bulk (sold in lots of 100 or more), excur- sion between New York and Princess Bay	3
(Case No.) 1012	Jan. 4	Staten Island Rapid Transit Railway Company	Tariff restoring school rates heretofore in effect	*

* Less than statutory notice, effective immediately.

178 PUBLIC SERVICE COMMISSION — FIRST DISTRICT.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice.
(Case No.) 1012	Jan. 8	Staten Island Rapid Transit Railway Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 7, refunding to those entitled to school books for Jan- uary, 1909, the dif- ference between the school rates pub- lished in tariff P. S. C. 1 N. Y. No. 7 and rates paid for com- mutation books.....	*
(Case No.) 1012	Jan. 26	Staten Island Rapid Transit Railway Company	Tariff restoring school rates heretofore in effect on the lines of that company .....	.
(Case No.) 1053	Jan. 29	Staten Island Rapid Transit Railway Company	Supplement No. 3 to its official classifica- tion P. S. C. 1 N. Y. No. 55, rate on porce- lain and chinaware in boxes, from first to second class	1
43	Feb. 23	Staten Island Rapid Transit Railway Company	Local and joint tariff P. S. C. 1 N. Y. No. 9, establishing school rates for the month of March	†
47	March 12	Staten Island Rapid Transit Railway Company	Supplement No. 1 to tariff P. S. C. 1 N. Y. No. 6, withdrawal no- tice of present limit to use of return coupons of excursion tickets, per tariff No. 6, except excursion tickets sold in bulk (lots of 100 or more), the latter being for party use and at re- duced rates	3
49	March 26	Staten Island Rapid Transit Railway Company.....	Local and joint tariff P. S. C. 1 N. Y. No. 10, establishing school rates for the month of April.....	‡

* Less than statutory notice, effective immediately.

† On less than statutory notice effective for March, 1909.

‡ Less than statutory notice effective during April.

Special Permis- sion No.	Issued.	Company.	Permit granted to put into effect.	Num- ber of days' notice
51	April 27	Staten Island Rapid Transit Railway Company.....	Local and joint tariff P. S. C. 1 N. Y. No. 12, establishing school rates for the month of May.....	*
59	May 25	Staten Island Rapid Transit Railway Company.....	Local and joint tariff P. S. C. 1 N. Y. No. 13, establishing school rates during June	†
88	Sept. 17	Staten Island Rapid Transit Railway Company.....	Local and joint tariff P. S. C. 1 N. Y. No. 17, establishing school rates from Perth Amboy division stations to Rosebank; also between Perth Amboy division sta- tions, Grasmere to Tottenville	‡
(Case No.) 1035	Jan. 8	Twenty-eighth and Twenty- ninth Streets Chosstown Railroad Company	Tariff P. S. C. 1 N. Y. No. 1	1
55	May 18	United Electric Light and Power Company	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing reductions in charges for Tungsten lamps	1
80	Aug. 3	United Electric Light and Power Company	Supplement No. 1 to schedule P. S. C. 1 N. Y. No. 1, contain- ing changes in con- junctional service rider	1
87	Sept. 10	United Electric Light and Power Company	Supplement No. 2 to schedule P. S. C. 1 N. Y. No. 1, contain- ing form of con- tracts covering rates for use in connection with exhibition or decorative lighting on account of the Hud- son-Fulton celebra- tion	1

* Less than statutory notice effective during May, 1909.

† On less than statutory notice effective during June, 1909.

‡ Less than statutory notice.

Franchise Matters Not Arising from Specific Applications of Companies.

New York and Queens County Railway Company.— Inquiry as to right to operate cars across the Queensboro Bridge.

Case No. 1166

Hearing Order

This proceeding was begun on motion of the Commission to determine by what right, authority or under what terms or conditions the company has operated and continues to operate cars across the Queensboro Bridge. The Commission, on October 5, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on October 13th. A hearing was had on October 13, 1909. No further action during 1909.

Rates, Fares and Charges.

Brooklyn, Queens County and Suburban Railroad Company and Brooklyn Heights Railroad Company.— Ten-cent fare to North Beach from points south of Flushing Road.

This proceeding was begun in 1908 upon the complaint of Frederick Erbe and others, against the companies regarding the charge of a ten-cent fare from points south of Flushing Road junction to North Beach. Hearings were held during 1908. The Commission issued the following order:

FREDERICK ERBE, HENRY SAUL, THEODORE
BLAU, GUS WERNAU, SIEGFRIED FRANKEL,
and WILLIAM S. WATERS, Complainants,

against

BROOKLYN, QUEENS COUNTY AND SUBUR-
BAN RAILROAD COMPANY and the BROOK-
LYN HEIGHTS RAILROAD COMPANY,
Defendants.

“Ten cent fare to North Beach from points
south of Flushing Road.”

Case No. 286,
Dismissal Order.
February 19, 1909.

It is ordered, That the complaint herein be, and the same hereby is, dismissed.

Coney Island and Brooklyn Railroad Company.— Ten-cent fare to Coney Island.

Case No. 350

**Opinion of the Commission
Dismissal Order**

This proceeding was begun in 1908 upon the complaint of Jonas Monheimer against the company alleging that the ten-cent fare charged by it on Saturdays, Sundays and holidays on each of its Coney Island lines is unjust, unreasonable and unlawful. Hearings were held during 1908.

OPINION OF THE COMMISSION.

(Adopted July 2, 1909.)

COMMISSIONER BASSETT: —

This proceeding arose upon two separate complaints, each of which asserts that the ten cents fare charged by the defendant company on Saturdays, Sundays and holidays on each of its Coney Island lines is unjust, unreasonable and unlawful. The two complaints were, without objection, consolidated for the purpose of the hearing and progressed as one proceeding. At the time of the filing of the complaints and for some time after the close of the hearings in this proceeding, the defendant charged a single fare of five cents on each of its Coney Island lines on all week days excepting Saturdays and holidays. This five cents fare on ordinary business days with the extra fare for other days had prevailed since 1902 and continued in force until August 31, 1908, when the fare was increased to ten cents on all days of the week.

The Commission has not only received and considered in this proceeding all of the facts that the parties cared to present, but it has deemed that this case shall embody the entire question of Coney Island fares so far as that question pertains to this railroad. To this end the investigations of the Commission have been carried on for many months and the conclusions reached in this opinion are based upon all of the data obtained, the larger part of which were not adduced by any of the parties, but were either presented by the Commission or have been ascertained and analyzed by it since the public hearings were closed.

We shall first consider this case according to the fare conditions that existed at the time of the hearings, and prior to August 31, 1908. The reason why the difference in fare was made on holidays appears to be that on ordinary week days this railroad would carry few Coney Island passengers in competition with the elevated roads of the Brooklyn Rapid Transit system if ten cents fare were charged. On Saturdays, Sundays and holidays, however, especially in summer, the movement of travel was so great that all lines of travel were well patronized. The result was that the defendant company obtained a large patronage on the crowded days even at a ten cents fare.

The defendant company operates six different routes to Coney Island either by through car or on transfer, as follows:

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(1) From Covert Avenue in the Borough of Queens to Coney Island, a distance of 11.53 miles.

(2) From Delancey Street, Manhattan, 12.38 miles.

(3) From Grand Street ferry, Brooklyn, 11.18 miles.

(4) From Park Row, Manhattan, 11.278 miles.

(5) From Fulton ferry, Brooklyn, 10.51 miles.

(6) From Hamilton ferry, Brooklyn, 9.3 miles.

In the fiscal year ending June 30, 1907, the extra fares amounted to \$94,724.88, out of a total of \$1,612,924.02. The net income of the company in 1907 after payment of operating expenses, rentals, taxes and fixed charges, was \$81,044.75. It is apparent that if the extra fares had not been collected and the riding had continued the same, the company would have been unable to meet the fixed charges. No dividends have been paid on the stock of the company since February 1, 1907. The total passenger receipts from June 30, 1906, to April 8, 1907, were \$1,229,303.92, while from June 30, 1907, to April 8, 1908, they were \$1,156,155.36, a falling off of \$73,148.56 as compared with the previous year.

The Coney Island and Brooklyn Railroad Company has during recent years had capital stock of \$2,000,000 outstanding (at present writing \$2,980,725) and mortgage bonds of \$3,500,000 bearing interest at 4 per cent. Its route mileage is 13.75 miles. It leases the Brooklyn City and Newtown Railroad Company and pays therefor \$100,000 per annum, being 5 per cent on the mortgage bonds of the Brooklyn City and Newtown Railroad Company of \$2,000,000. The route mileage of the Brooklyn City and Newtown Railroad Company is 9.854; that of its proprietary company, the De Kalb Avenue and North Beach Railroad Company is .532, all construction having been done by the proprietor. The combined route mileage is thus 24.136. The entire system is double-tracked. Since the Coney Island and Brooklyn Railroad Company's consolidated mortgage is a lien on the entire system, and its proceeds are applied to any part, the funded debt may best be compared with the combined route mileage. The per mile funded debt of the system is thus \$228,000.

Notwithstanding payment of interest on the above funded debt averaging over \$225,000 per mile of route, the company for the period between 1902 when the ten cents fare went into effect and 1907, paid as dividend an average of 11.43 per cent per annum on its capital stock of \$2,000,000. If during this period one-third to one-half of the net income were put aside for proper reserves (as recommended by Mr. Ford, the expert of the company), 5.71 per cent to 7.62 per cent average dividends could have been paid. If five cents fare to Coney Island had been charged instead of ten cents, the company could have still paid 3.3 per cent to 4.4 per cent per annum on its capital stock after providing for rentals, interest and depreciation, assuming that no profitable increase of traffic had taken place as a result of the lower fare.

Since 1899, when it began to pay substantial dividends, it has paid practically its entire surplus earnings to its stockholders. The following is a schedule showing dividends paid and net income:

Year ending June 30	DIVIDENDS		Net income for the year
	Rate per cent.	Amount	
1899.....	9.50	\$189,190.00	\$213,794.52
1900.....	10.00	199,800.00	173,067.40
1901.....	12.00	239,900.00	360,571.78
1902.....	16.00	320,000.00	334,069.54
1903.....	16.00	320,000.00	325,972.81
1904.....	16.00	320,000.00	308,004.65
1905.....	14.00	280,000.00	160,908.36
1906.....	8.00	160,000.00	161,494.24
1907.....	6.00	120,000.00	81,044.75
	107.50	\$2,148,890.00	\$2,118,928.05

The foregoing facts clearly show that the failure of the company to put aside a reserve for depreciation and its policy of paying the largest possible dividends regardless of the upkeep of the equipment of the railroad are responsible for the condition of the company at the time of the hearings. The stockholders having obtained in the form of dividends the earnings that should have gone for maintenance should not now object because renewals and increased maintenance and interest charges make dividends temporarily impossible, nor should this presumably temporary situation stand in the way of a reduction of fare if other considerations would justify such a reduction.

Several claims were set up by the company to show that the ten cents fare to Coney Island is justified regardless of the conclusions that may be drawn from the large past earnings of the company. We will take these up in order.

1. It is claimed that the cost of labor has increased. Tables compiled from the sworn reports of the defendant show no substantial increase of the cost of labor per unit of service. Table XVIII (Commission's Exhibit 25) shows the average number of cash passengers per employee (regardless of nature of employment) from year to year. Substituting for the year 1907 the number of cash passengers, as corrected by the elimination of second fares, we find that the average number of passengers per employee increased from 27,905 in 1899 to 35,551 in 1907, which shows a saving of labor equal to 22 per cent in proportion to the number of passengers. The highest increase of wages, however, mentioned by the defendant's expert was from 20 to 23 cents per hour; i. e., 15 per cent.

2. It is claimed that the Coney Island business must earn thrice the fixed charges of ordinary business because it is purely a summer business. The bulk of the Coney Island traffic, as indicated by the monthly fluctuations of the returns from second fares for 1907, was done during five summer months, viz.:

May	\$8,962.20
June	14,421.33
July	22,993.45
August	17,460.76
September	11,525.78
All other months	13,174.72
Total, 1907	\$88,541.24

During the months of November, December, January and February no second fares were collected on the DeKalb and Franklin Avenue lines; on the Hamilton Avenue line the collections aggregated \$79.49, and on the Smith Street line they were likewise very small. It may therefore be assumed that the operations of those four months are not affected by the Coney Island traffic. The winter traffic required the defendant to be ready to furnish 497,901 car miles in December; the maximum Coney Island traffic in the month of July brought the car mileage up to 756,031 miles, which is an increase of 52 per cent. How much of this increase is due to the normal increase in summer over winter is not shown by the evidence, but part would be necessitated in any case. Neither does the evidence show how many more cars must be supplied in the rush hours than at other times of day. It would seem likely that the extra cars needed by any city railroad for summer and rush hour uses would go far to cover the special needs of the Coney Island traffic of this railroad.

3. It is claimed that the entire Coney Island business is conducted at a loss. The monthly income account of the company for the year 1907 shows the highest net earnings reported for the five summer months from May to September, both inclusive, during which the net earnings aggregated \$220,443.99 out of a total of \$264,476.77; i. e., 83.5 per cent of the total net earnings for the year. Operating expenses and taxes during these months averaged \$118,362.12 per month, while during the winter months they averaged \$101,408.50 per month. Thus the increase in the cost of operation during the summer was only \$16,943.38 per month, while the gross earnings increased from a monthly average of \$107,698.91 for the winter season to \$162,450.91 for the summer season; i. e., by \$54,752.00. There was a net gain of \$37,808.62 per month over the average winter net earnings. The ratio of operating expenses and taxes to gross earnings for the five summer months was 72.8 per cent, whereas the ratio of operating expenses and taxes to gross earnings during the remainder of the year 1907 was 94.1 per cent. These figures clearly show that the summer business is not conducted at a loss and that the increase of that business means an increased profit. On the contrary it is clear that the operating cost of the summer traffic is less than that of the winter business. The addition to the monthly operating expenses caused by the summer business is but 30.5 per cent of the addition to the monthly gross earnings. It should be noted however that summer business is not synonymous with Coney Island business. There is a large Prospect Park traffic in summer also.

The foregoing considerations throw light on what the position of the company would have been if its business had been more correctly conducted. They demonstrate that the Coney Island business is a profitable business handled at a rate of five cent fare for five days in the week and ten cent fare on Saturdays, Sundays and holidays. Whether a regular five cent fare would be remunerative to the company or would depress its income to a point where a reasonable return could no longer be secured upon the investment is a question that requires a close analysis of the company's operations. The basis for such an analysis is furnished in the following table of revenue and expenses, wherein the quantities or amounts have been reduced to a car-mile basis:

Condensed Income Statement of the Coney Island & Brooklyn Railroad Co. for 1907, with Comparative

Car-mile Earnings and Expenses for each of the Years 1902 to 1907.

	Amount in year ended June 30, 1907.	Income and expenses per car mile.						
		1907	1906	1905	1904	1903	1902	1902-7
		cents.	cents.	cents.	cents.	cents.	cents.	cents.
Revenues.								
" City " fares.....	\$1,518,199 14	22.387	22.940	23.002	24.319	23.918	23.326	23.296
Second (Coney Island) fares.....	91,724 88	1.397	1.397	1.406	1.709	1.809	1.242	1.492
Revenue from carrying mail, etc.....	800 00	.012	.012	.012	.013	.014	.004	.011
Total car earnings.....	\$1,613,724 02	23.795	24.350	24.420	26.041	25.740	24.572	24.798
Miscellaneous earnings.....	7,850 24	.116	.076	.072	.075	.085	.125	.091
Total revenue from operation.....	\$1,621,574 26	23.911	24.426	24.492	26.116	25.825	24.697	24.889
Expenses.								
Maintenance.....	\$246,927 32	3.641	3.429	3.247	2.828	2.783	2.715	3.121
Operation of power plant.....	314,332 12	4.635	4.313	4.222	3.983	3.882	2.764	3.987
Operation of cars.....	455,646 08	6.719	6.667	7.148	6.814	6.493	6.451	6.719
General expense.....	211,942 55	3.125	3.132	3.131	3.300	3.078	2.981	3.126
Total expenses of operation.....	\$1,228,848 07	18.120	17.542	17.748	16.924	16.236	14.911	16.953
Taxes.....	58,272 63	.859	.866	.790	1.055	1.127	1.071	.960
Total expenses and taxes.....	\$1,287,120 70	18.979	18.408	18.538	17.979	17.363	15.982	17.913
Net income.								
Surplus revenue over expenses and taxes.....	\$334,453 56	4.932	6.018	5.954	8.137	8.462	8.715	6.976
Non-operating income.....	41 00	.000	.014	.024	.008	.006	.019	.012
Total clear income.....	\$334,494 56	4.932	6.032	5.978	8.145	8.467	8.734	6.988
Deduct rental.....	100,000 00	1.475	1.469	1.527	1.584	1.609	1.639	1.551
Deduct interest.....	153,449 81	2.263	2.190	1.995	1.682	1.613	1.618	1.894
Balance available for dividends.....	\$81,044 75	1.194	2.373	2.456	4.879	5.245	5.477	3.543
Dividends.....	120,000 00	1.769	2.351	4.275	5.070	5.149	5.246	3.976
Number of miles run by passenger cars.....								6,781,723
Number of passengers (including transfers).....								39,158,626
Number of transfers.....								5,898,528

The service rendered by a street railway company and the amount of its expenses may be measured by the number and frequency of the cars that it runs. In other words, the total distance traveled by revenue cars in a given period represents the amount of service given, and the unit of service in one car-mile. Certain other units of service such as the car-hour also have their value, but on the whole the car-mile affords the most satisfactory basis of comparing costs of street railway operation that is now available especially when the comparisons are confined to a particular road. In his testimony before the Commission, the company's expert objected to the use of the car-mile unit on the ground that the company had replaced small cars with large cars and thereby changed the significance of the car-mile as a unit of service. The company's reports to the Commission, however, show that few changes of the kind mentioned have been made in the company's rolling stock in the last few years, and there is no reason to believe that those changes invalidate comparisons of car-mile costs between 1902 and 1907.

The statistics on which these car-mile ratios are based are derived from the annual reports of the company to the Railroad Commission, such reports being made and sworn to by the officers of the company. So far as the revenues are concerned there is no reason to question their substantial accuracy, as they are almost entirely composed of cash fares collected from passengers carried. The miscellaneous earnings, consisting of revenue derived from the sale of advertising privileges, rent of buildings, tracks and other street railway property, constitute a relatively small item.

Taking the figures of operating expenses as given in the foregoing table under the four headings of Maintenance, Operation of Power Plant, Operation of Cars, and General Expenses, it is possible to arrive at a fairly definite figure as to the average cost of operating a car one mile on the lines of the Coney Island and Brooklyn railroad. In the six years embraced in the table, covering the period 1902 to 1907 during which a second fare was charged to Coney Island on Saturdays, Sundays and holidays, the general expenses (including the cost of management and the almost equally large item of damages and attendant legal expenses) averaged 3.126 cents per car-mile. In 1907 the general expenses amounted to almost precisely the same figure, and this may therefore be taken as the normal expense on this road. The operation of cars in 1907 cost 6.719 cents per car-mile, which is also the average for the whole period and may therefore be considered as not less than the normal cost. The operation of the power plant in 1907 cost 4.635 cents per car-mile as contrasted with 2.764 cents per car-mile in 1902. From the foregoing figures it is apparent that omission of proper maintenance and the great increase of power cost were the main causes of the deficiencies shown at the hearings. Losses on Coney Island business were not perceptibly responsible.

We will now proceed to consider also the operations of 1908. In the year ending June 30, 1908, there was a further rise in the cost of operation of power plant to 5.868 cents per car-mile, making a difference between 1902 and 1908 of 3 cents per car-mile, or \$200,000 a year. Inasmuch as \$200,000 would afford a dividend of 10 per cent upon the stock of the Coney Island and Brooklyn Railroad Company, the significance of this increase in the cost of power is sufficiently obvious without further analysis. While there has also been some increase in the cost of maintenance of the company's road

and equipment, it is clear that the real seat of the company's financial difficulties is the enormously enhanced cost of its power supply. The company's increased expense in this direction could not well escape its notice, and it some time since planned to replace its antiquated power plant, which dates back to the early days of the electric railway business, with a modern system of power supply. The new power plant has now been in operation for several months, and the result appears in the following figures showing the cost of power supply (exclusive of maintenance) per car-mile run:

July	4.32 cents
August	4.50 "
September	4.70 "
October	5.00 "
November	4.12 "
December	2.82 "
January	2.63 "
February	2.42 "
March	2.27 "
April	1.92 "
May	1.88 "

In the ordinary course of business the cost of power per car-mile increases in winter, owing to the additional electric energy that is consumed in heating the cars or wasted by reason of the snow, ice and other impediments on the tracks. In the place of such an increase during the present winter the working expenses of the power plant have been reduced more than two cents per car-mile. If, therefore, it be assumed that the normal cost of power to the Coney Island and Brooklyn Railroad Company be 2.25 cents per car-mile for the entire 12 months of the fiscal year, the figure will be approximately correct.

The remaining item of operating expenses to be considered is the cost of maintaining the road and equipment. As to this cost the figures at hand afford little assistance, for the reason that they cover only such repairs as were obviously necessary. No allowance seems to have been made for the wear and tear that is not reparable, or for the growing inadequacy of equipment that has to be replaced before it is worn out. Assuming, for example, that the average life of a street car is 20 years, it is evident that 1/20 of the capital invested in the car is consumed upon an average every year that it is in use, irrespective of the amount of money that may be expended in keeping the car in thoroughly good repair. No calculation of costs is at all satisfactory which omits the proper charges for such deterioration of physical property. The Commission has recognized that fact in prescribing a uniform system of accounts for street railways which requires depreciation charges as a part of the operating expenses. Under this system of accounts, which will be in force July 1, 1909, the Coney Island and Brooklyn Railroad Company will be required to include proper depreciation in its operating expense accounts, and it would therefore be unjust for the Commission to issue an order which failed to recognize the element of depreciation as an item of general cost. How much should be allowed for depreciation in the case of the Coney Island and Brooklyn Company is a matter that remains still to be investigated. The accounting order does not attempt to fix the rate of depreciation, but requires the individual companies to make an investigation as to

the probable life in service of their operated properties, and on the basis of their experience formulate a rule as to the amount needed for preserving the capital assets unimpaired. Such rule as to the rate of depreciation has not yet been formulated by the Coney Island and Brooklyn Railroad, but is estimated to be five cents per car-mile, and this amount should either be spent or be put into a fund for use when needed.

The estimated car-mile costs of the Coney Island and Brooklyn Railroad may be recapitulated as follows:

Maintenance (including depreciation)	5.00	cents
Operation of power plant.....	2.25	"
Operation of cars	6.72	"
General expenses	3.13	"
<hr/>		
Total operating expenses	17.10	"
Add taxes .....	.90	"
<hr/>		
Operating expenses and taxes.....	18.00	"

Turning now to the income side of the ledger, it is found that for the year ended June 30, 1908, there were the following revenues from operation:

"City" fares (5 cents).....	\$1,455,655.33
Second (Coney Island) fares.....	89,769.78
Revenues from carrying mail, etc.....	800.00
Miscellaneous earnings	11,232.06
<hr/>	
Total	\$1,557,457.17

If the fare were reduced to five cents for every day in the year, it is evident that the receipts from "second" fares in the above items would be eliminated, and the question arises whether the income from single fares would be correspondingly increased. It is also questionable whether, even if no change were made in the rate of fare whatever, the gross revenues would be maintained. There was a difference between the two years, 1907 and 1908, of over \$60,000, and for some time there has been a steady decrease. If this were continued throughout the year just closing, the income would be very materially reduced.

It is true that other lines in Brooklyn have shown a falling off in the last two years which is doubtless due to general business depression and to the readjustment of traffic incident to the extension of the subway and the extension of Manhattan Borough companies in Brooklyn across the Williamsburg Bridge. While the falling off on other lines would seem to have been checked recently, there are special features affecting the Coney Island and Brooklyn Railroad lines which would seem to indicate that those lines will continue to feel the loss of traffic until the density of population shall have considerably increased in the territory adjacent to the outlying portions of the defendant's routes. The defendant's Coney Island line is paralleled on either side by the Brighton Beach line and the Culver line of the Brooklyn Union Elevated Railroad Company, upon which roads express service is maintained from Coney Island to Park Row. Within the last few years on each of these elevated lines obsolete steam engines have been superseded by third rail equipment, the frequency of service has been greatly increased and the service otherwise improved. The defendant's DeKalb Avenue line also feels

the competition of the Lexington Avenue line and the Myrtle Avenue line of the Brooklyn Union Elevated Railroad Company. On both of these last named lines there has been a marked increase in frequency of trains and in the number of cars operated within the past few years, and the improvements at the Manhattan end of the Brooklyn Bridge permitting through elevated service to Park Row have made these lines more attractive to large numbers of passengers. With these conditions added to the increasing competition from the surface lines of the Brooklyn Rapid Transit system, the company seems liable to show a slow recovery from the falling off in earnings that has been evident for the past three years.

However, if we assume that this decrease would be stayed, that the decrease due to the elimination of the second fare would be offset by gains in other directions, and that the total income from operation would be, with a five cent fare, \$1,550,000, we have certainly been generous to the public, and possibly too severe upon the company. In other words, it would seem likely that the total earnings would be less than \$1,550,000 rather than more with a five cent fare for every day. Assuming that the company were able to earn this amount without any increase in car mileage, we would have the following approximate results:

Total revenue from operation.....	\$1, 550, 000
Total operation expenses	1, 220, 000
Net revenue	<u>\$330, 000</u>

This amount, which is available for rental, interest and dividends, would represent a return at 6 per cent upon \$5,500,000, at 6½ per cent upon a little over \$5,000,000, and of 7 per cent upon a little over \$4,700,000.

There remains to be considered whether this is a fair return upon the capital invested in the street railway property. Neither the evidence produced at the hearings nor the reports of the company gave any trustworthy statement of the actual investment. Without information on this subject, however, no real progress could be made in determining the reasonableness of a ten cent fare. It is plain that the rate that might result in loss on a large investment would be reasonable on a smaller investment. Total outstanding stock and bonds might or might not be a proper criterion.

Mr. Bion J. Arnold, who has been employed to appraise the properties, has reported to the Commission that the present value of the physical property of the road, without including anything for franchises, good will, going concern, or development charges, plus such amounts as would be necessary to put the road in first class operating condition, due to the fact that the road has been allowed to deteriorate, would be at least \$5,000,000.

In the opinion of the Commission, therefore, a five cent fare every day in the week would not produce a proper return upon the value of the road, plus a sufficient amount to bring it up to date, which amount must be expended by the company.

It is possible that a reduction of the rate of five cents would mean a considerable increase in the number of passengers carried, and consequently in the gross income; but it would also mean, probably, an increase in the operating expenses. Whether there would be an increase in the net income is problematical; and in view of the narrow margin allowed the company

upon the basis of a five cent fare during the week and ten cents on Saturdays, Sundays and holidays, the Commission does not feel that it would be warranted in ordering a reduction merely upon an expectation so uncertain.

It should be noted that the Commission has considered, in the amount upon which a fair return should be allowed, a considerable sum for rehabilitation. The policy of the company for several years past has been to distribute substantially all of its surplus revenue to stockholders in the form of dividends. As has been pointed out, no provision was made for depreciation and the appropriations for maintenance were very inadequate up to two years ago. As a result, the property of the defendant is still in inferior condition, notwithstanding the recent improvements that have been made. While this condition should not be urged by stockholders as a valid reason against a reduction of fare if such reduction were found to be justifiable, still the Commission is bound to give consideration to the necessity for improvements, as a part of its duty of protecting the public; and the Commission is unwilling to take any action that would make it more difficult for the people of Brooklyn to obtain the service to which they are entitled. The present depreciated value of the property is very much below what would be the value of such a system in first class operating condition. As the Commission has considered that it is prudent to allow a sufficient amount to restore the road to standard condition, it will be its duty to compel the company to continue the rehabilitation of the property and it will see that replacements are ultimately paid for out of earnings before earnings are used for dividends. If a rate were fixed upon the present depreciated value, it might be so low as to prevent rehabilitation. However, it should be frankly stated that if the company should not put its property in first-class operating condition the reasonableness of the fare could then properly be reconsidered.

We now pass to a consideration of the operations of the company since on August 31, 1908, it increased the fare on ordinary business days from five cents to ten cents. The receipts from extra fares show an increase but the total business done shows a decrease as compared with the previous year. We have carefully reviewed the operating figures so far as ascertainable since the new method went into effect, and although it is claimed by the company that the new operation has resulted in a substantial gain in the receipts for the company as a whole and also an improvement in the class of traffic, yet the figures obtained equally tend to show that the advance in the rate means a loss of business which just about balances the additional collections directly resulting. The company, by giving a five cent fare on five days of the week, invited many people to buy property and build homes near Coney Island. While this fact does not in any way amount to a contract between the company and the residents, it would appear that the practice of charging ten cents on all days of the week should only be continued after a showing that the former practice of charging five cents on five days of the week was the main cause of the loss of net earnings. Even if there has been some increase in net earnings since August 31, 1908, and even if it could be proved that a part of this is due to the increase in fare, the fact remains that the main causes of insufficient profits have been omission of maintenance and uneconomical power production. It is a matter of grave doubt, however, whether the old rate was not really more profitable for the company than the new rate, for the reason that the former single fare to Coney Island

induced traffic that was carried in more or less empty cars and could therefore be handled at a very low cost; that is to say, the cars which in the morning brought people to their work in Brooklyn and Manhattan carried back on their return trip as passengers to Coney Island family parties that chose the relatively slow surface cars of the Coney Island and Brooklyn Railroad in order to save the extra fare charged by the elevated roads. It is significant that the proportion of children among passengers was apparently nearly twice as great on the single fare days as on the double fare days. When these people returned late in the afternoon this special traffic was in a direction opposite to the tide of travel away from work and was again handled at a low cost because carried in large part in cars that would otherwise have been run with small loads. It is a well recognized fact among railroad managers, both passenger and freight, that an unusually low rate may be a profitable rate if it induces traffic to fill cars that would otherwise have to be hauled empty. In fact, the accepted theory of railroad freight rates is based on the idea of encouraging traffic to move at a low rate, provided that rate covers prime costs and makes some contribution toward meeting the fixed charges.

The action of the company in increasing the fare appears to us to have been unjustifiable. The increase appears also to have been unreasonable because it places an additional burden on the traffic with slight profit to the company or none at all. It appears to have been based upon a mistaken theory that recent loss of profits was due to Coney Island fare conditions rather than to the substantial causes that the analysis by the Commission has revealed. The complaints, however, in the present proceeding relate only to the holiday fare. As a matter of proper procedure, the scope of the present hearing is not broad enough to lay the foundation for an order dealing with the company's recent increase of fare on business days. The company should remedy the matter now that the impropriety of its action is called to its attention. It is alleged that the ten cents fare is unlawful. The Coney Island and Brooklyn Railroad Company was organized on December 6, 1860, under the General Railroad Act of 1850, and in the permission and consent granted to it by the Common Council of the City of Brooklyn on January 21, 1861, it was provided that the fare within the City of Brooklyn should not exceed five cents. Under the law last cited the company was permitted to charge a rate of fare not exceeding three cents per mile. Therefore the company was privileged to charge five cents within the City of Brooklyn and at the rate of three cents per mile for the distance outside of the City of Brooklyn. The distance outside the former city would be from Prospect Park to Coney Island, six miles. All of the laws and franchises affecting this corporation have been placed before the Commission and examined and we do not find that the legal right of the company to charge five cents within the former City of Brooklyn and three cents per mile outside has ever been abridged. It is of course understood that this statement is without derogation of the right and duty of the Commission to prescribe a lower rate of fare whenever the rates charged may be found to be unjust or unreasonable.

We are therefore of the opinion that the fare of ten cents on Saturdays, Sundays and holidays was not unjust, unreasonable or unlawful and that the complaints should be dismissed.

Thereupon the Commission issued the following order:

<div style="text-align: center;"> J. MONHEIMER, Complainant, <i>against</i> THE CONEY ISLAND & BROOKLYN RAILROAD COMPANY, Defendant. "Ten-cent fare to Coney Island." </div>	Case No. 350, Dismissal Order. July 2, 1909.
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Ordered, That the complaint herein be and the same hereby is dismissed.

Coney Island and Brooklyn Railroad Company.—Ten-cent fare to Coney Island.

Case No. 352

Opinion of the Commission
Dismissal Order

This proceeding was begun in 1908 upon the complaint of Scott MacReynolds against the company alleging that the ten-cent fare charged by it on Saturdays, Sundays and holidays on each of its Coney Island lines is unjust, unreasonable and unlawful. Hearings were held during 1908.

See "Opinion of the Commission" in Case No. 350, *supra*, upon which the following order was issued:

<div style="text-align: center;"> SCOTT MACREYNOLDS, Complainant, <i>against</i> THE CONEY ISLAND & BROOKLYN RAILROAD COMPANY, Defendant. "Ten-cent fare to Coney Island." </div>	Case No. 352, Dismissal Order, July 2, 1909.
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Ordered, That the complaint herein be and the same hereby is dismissed.

Coney Island and Brooklyn Railroad Company.—Five-cent fare from New York to Coney Island on week days.

Case No. 1134

Complaint Order
Hearing Order

This proceeding was begun upon the complaint of Jonas Monheimer against the company in regard to the charge of a ten-cent

fare from New York to Coney Island on week days. The Commission, on July 13, 1909, issued a complaint order upon said complaint (see blank form of complaint order, page 7), and on August 3, 1909, directed (see blank form of hearing order, page 8), that a hearing be had on said complaint on August 11th. Hearings were held on August 11th and subsequently until December 23d when the proceeding was adjourned to January 6, 1910.

Long Island Railroad Company.— Excess ten-cent fare between Jamaica and Flatbush Avenue.

Case No. 1022

Hearing Order

Opinion of the Commission

Final Order

Rehearing Order

Order denying petition for
abrogation of Final Order

This proceeding was begun upon the complaint of H. M. Fishburn against the company respecting the charge of ten cents over the regular or established rate of fare charged to passengers who pay fare on the train upon the company's lines of road between Jamaica and Flatbush Avenue. The Commission, on January 19, 1909, directed that a hearing (see blank form of hearing order, page 8) be had on said complaint on February 3d. A hearing was had on February 3d.

OPINION OF THE COMMISSION.

(Adopted June 25, 1909.)

COMMISSIONER BASSETT:—

The complaint states that the Long Island Railroad Company on its line between Jamaica and Flatbush Avenue requires passengers when boarding trains without first procuring tickets (the ticket office being open) to pay an extra fare of ten cents. The passenger receives a receipt of this amount which he can exchange for ten cents at any office of the company. The complaint claims that the collection of such excess charge constitutes a violation of chapter 38 of the Laws of 1889, while the railroad company cites this act as its authority for making such charge.

The statute referred to is entitled "An Act to regulate the payment of fares upon railroads," and is as follows:

THE PEOPLE OF THE STATE OF NEW YORK, represented in Senate and Assembly, do enact as follows:

Section 1. It shall be lawful for any company owning or operating a steam railroad in this State, to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this State, provided, however, that it shall be the duty of such company to give to any passenger paying such excess, a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded, upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided further that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train, on which such passenger takes passage."

The line in question was originally the Brooklyn and Jamaica Railroad, between Jamaica and Flatbush Avenue. It was subsequently sold on foreclosure and was bought in by the Atlantic Avenue Railroad Company. The line is now operated by the Long Island Railroad Company under a lease from the Atlantic Avenue Railroad Company. This line lies entirely within the City of New York.

When the act above mentioned was passed, no part of this line lay within the corporate limits of the City of New York, and only a part of the line lay within the corporate limits of the City of Brooklyn. Apparently, therefore, the company then had a right to require the payment of the excess charge mentioned, except where the passage was wholly within the corporate limits of the City of Brooklyn. By the enactment of the Greater New York Charter in 1897, however, the City of Brooklyn, the Village of Jamaica and all intervening territory traversed by this line, were annexed to and made a part of the City of New York. Accordingly the line between the points mentioned is now wholly within the limits of an "incorporated city in this State" within the meaning of the act.

The company however claims that the right to collect this ten cents extra is a vested right. In my opinion the act of 1889 is a mere regulation as to the method of collecting fares. It grants no property right. It expressly provides that all money collected as excess charges shall be returned. The nature and purpose of the act are shown by its title: "An Act to *regulate* the payment of fares upon railroads." It no more secures to the company a vested property right than would a law regulating speed, service or appliances for safety and protection.

It is contended by the company that the rights acquired by it under the Laws of 1889 have been preserved to it by certain provisions of the Greater New York Charter. The first reference is to the following:

"§ 45. Nothing in this act contained shall repeal or affect in any manner the provisions of the rapid transit acts applicable to the corporation heretofore known as the mayor, aldermen and commonalty of the City of New York, or any municipality united therewith or territory embraced therein, or to repeal or affect the existing general laws of the state in respect to street surface railroads."

This section applies only to rapid transit acts, and to general laws in respect to street surface railroads, and therefore has no reference to the line in question which is a steam railroad.

"§ 1538. This act shall not extend the territorial operation of any rights, contracts or franchises heretofore granted or made by the corporation known as the mayor, aldermen and commonalty of the city of New York, or by any of the municipal and public corporations which by this act are united and consolidated therewith, including the counties of Kings and Richmond, and the same shall be restricted to the limits respectively to which they would have been confined if this act had not been passed; nor shall this act in any way validate or invalidate or in any manner affect such grants, but they shall have the same legal validity, force, effect and operation and no other or greater than if this act had not been passed."

This section has reference only to "rights, contracts, or franchises" granted or made by the former City of New York or by any of the municipal and public corporations united and consolidated therewith. It has no reference whatever to any rights granted by the State of New York.

"§ 1614. No right or remedy of any character shall be lost or impaired or affected by reason of this act. This act shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment incurred prior to the time when this act takes effect or by virtue of any laws repealed or modified by this act, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this act had not been passed or said laws had not been repealed or modified; and all actions, suits, proceedings or prosecutions under the New York city consolidation act of eighteen hundred and eighty-two, or amendments thereof, or other laws relating to The City of New York and herein repealed or modified, or under any charter or law relating to any of the municipal and public corporations which are herein united and consolidated, and pending when this act takes effect, including the counties of Kings and Richmond, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless herein otherwise specially provided; and such actions, suits, proceedings or prosecutions may be continued without change of name or title, or on motion The City of New York may be substituted as plaintiff or defendant, as the case may be, in the place of the existing party to whose rights and obligations the said city of New York has by force of this act succeeded. The corporation counsel shall assume the charge, direction and control of all such actions, suits and proceedings in behalf of The City of New York. All future suits by or

against The City of New York as herein constituted or against any of the municipal and public corporations in this act united and consolidated shall be in the corporate name of 'The City of New York.'"

It is clear that the section does not save all rights previously enjoyed. If it did, there would be no subject-matter of any kind over which the new city would have any control or jurisdiction whatever. The purpose of the section is to preserve the status of parties where rights of action have accrued and to prevent a needless change or withdrawal of a remedy.

For the reasons above given I recommend that an order be issued directing the Long Island Railroad Company to cease the practice against which the complaint herein is made.

Thereupon the Commission issued the following order:

<p>M. H. FISHBURN, Complainant, <i>against</i> THE LONG ISLAND RAILROAD COMPANY, Defendant.</p>	}	<p>Case No. 1022, Final Order. June 25, 1909.</p>
<p>"Alleged Excess Charge Demanded and Collected on the Atlantic Avenue line between Jamaica and Flatbush Avenue Stations."</p>		

A hearing having been duly had by and before the Commission in the above entitled matter on the complaint of M. H. Fishburn and the answer of The Long Island Railroad Company thereto; and said hearing having been had on the 3d day of February, 1909, Commissioner Bassett presiding, H. M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, Frank J. Weigand, Esq., appearing for the complainant, and Joseph F. Keany, Esq., attorney, appearing for said The Long Island Railroad Company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that said The Long Island Railroad Company is violating the provisions of chapter 38 of the Laws of 1889 in demanding and collecting an excess charge of ten cents over the regular or established rate of fare from any passenger who pays fare in the car in which he or she has taken passage where such passage is upon said company's Atlantic Avenue line between Jamaica and Flatbush Avenue and wholly within the limits of an incorporated city in this state, namely, The City of New York; said company giving to such passenger a receipt or other evidence of such payment which legibly states that it entitles the holder thereof to have such excess charge refunded,

Now, therefore, it is

Ordered, That said The Long Island Railroad Company be and it hereby is directed and required to cease and desist from demanding and collecting such excess charge of ten cents in the manner aforesaid from any passenger whose passage is upon the aforesaid line and between the points aforesaid, and wholly within the limits of The City of New York. It is

Further ordered, That this order shall take effect on the 10th day of July, 1909, and shall continue in force until modified or abrogated by a further order of the Commission.

The company made application for a rehearing in respect to the matters determined in the Final Order, and the Commission, on July 13, 1909, directed (see blank form of hearing order, page 8) that a rehearing be had on August 13th. Hearings were held on August 13th and 16th. The Commission issued the following order:

CASE NO. 1022, ORDER DENYING PETITION FOR ABROGATION OF FINAL ORDER.
(August 26, 1909.)

A final order in the above entitled matter having been made on the 25th day of June, 1909, and having been duly served on said The Long Island Railroad Company, and said The Long Island Railroad Company having made application to the Commission under date of July 9, 1909, for a rehearing in respect to the matters determined therein, and said application having been granted; and a rehearing having been had in respect thereto on August 13 and August 16, 1909, before Commissioner Bassett, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and Joseph F. Keany, Esq., Attorney for The Long Island Railroad Company, appearing for said company; and the Commission being of the opinion after such rehearing and a consideration of the facts including those arising since the making of the original order above mentioned that said original order is not in whole or in part in any respect unjust or unwarranted and that the same should not be abrogated, changed or modified,

Now, therefore, it is

Ordered, That the petition of The Long Island Railroad Company that the final order herein be abrogated be and the same hereby is denied.

Nassau Electric Railroad Company.— Failure to issue transfers between West End elevated and 86th Street line.

Case No. 1027

Complaint Order

Hearing Order

Discontinuance Order

This proceeding was begun upon the complaint of Frank A. Hutson against the company for failure to issue transfers between the West End elevated and 86th Street line. The Commission, on January 22, 1909, issued a complaint order upon said complaint. (See blank form of complaint order, page 7.)

Thereafter, on September 24th the Commission directed that a hearing (see blank form of hearing order, page 8) be had upon

said complaint on October 4th. Hearings were held on October 4th and subsequently until November 19th. The complainant having, on November 18th, withdrawn his complaint, the Commission issued the following order:

<p style="text-align: center;">FRANK A. HUTSON, Complainant, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY, Defendant.</p> <hr style="width: 10%; margin: auto;"/> <p>“Refusal of Company to issue Transfers between West End Elevated Line and 86th Street Trolley Line, Brooklyn.”</p>	<p>Case No. 1027 Discontinuance Order November 26, 1909</p>
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The above named complainant having in writing, dated November 18, 1909, withdrawn his complaint herein, it is
Ordered, That the above entitled proceeding be and the same hereby is discontinued.

New York and Harlem Railroad Company and Metropolitan Street Railway Company.— Ten-cent fare on the 86th Street Crosstown line.

Case No. 1065
 Complaint Order
 Hearing Order
 Opinion of the Commission
 Final Order

This proceeding was begun upon the complaint of J. T. Evans respecting the charge of ten cents on the 86th Street Crosstown line by reason of failure to issue transfers at 86th Street and Second Avenue to cars going to or from 92d Street ferry.

The Commission, on February 9, 1909, issued a complaint order on said complaint (see blank form of complaint order, page 7), and on February 19th, issued an order directing (see blank form of hearing order, page 8) that a hearing be had on said complaint on February 26th. Hearings were held on February 26th and March 1st.

OPINION OF THE COMMISSION.

(Adopted March 12, 1909.)

COMMISSIONER MALTBIE:

This complaint relates to the service upon the 86th Street Crosstown line, which formerly extended from Astoria ferry (92d Street, East River) south on Avenue A to 86th Street; thence west on 86th Street to Madison Avenue; thence south on Madison Avenue to 85th Street; thence west on 85th Street to Fifth Avenue; and thence west on the transverse road through Central Park to 86th Street and Central Park West, returning by the same route. Cars were operated over this line in its entirety by the New York City Railway Company, the Metropolitan Street Railway Company, or their receivers, up to November 12, 1908. Transfers were given to all connecting lines, and a single fare of five cents was charged.

At midnight, November 12, 1908, this line was cut in two by the severance of the Second Avenue system from the Metropolitan system and the appointment of a separate receiver for the Second Avenue Railroad Company. Since that date the receivers of the Metropolitan Street Railway Company have operated cars from the westerly terminus of the 86th Street Crosstown line to 86th Street and Second Avenue, charging five cents and giving transfers to and from their lines. The receiver of the Second Avenue Company has operated the portion from the Astoria ferry to 86th Street and Second Avenue, and has charged five cents upon this line, giving transfers to and from the Second Avenue line. No transfers have been provided for between the Second Avenue system and the Metropolitan system. Consequently, a person going from any portion of the 86th Crosstown line east of Second Avenue to any portion west of Second Avenue, or vice versa, is compelled to pay two fares, or ten cents.

Naturally, such an increase in the fare for a short ride was productive of many complaints, and shortly after the fares were doubled this Commission issued an order for an investigation, at which it appeared that it is incumbent upon the Metropolitan Street Railway Company and its receivers, as lessees of the line from the New York and Harlem Railroad Company, to run cars through to the Astoria ferry and to carry passengers for a single fare of five cents. Not only is this obligation imposed by the franchise but also by ordinance and by contracts between the various parties interested and the city.

Upon December 11, 1908, after the facts had been developed by the inquiry, an adjournment was taken at the request of the representatives of the receivers of the Metropolitan Street Railway Company and of the Second Avenue Railroad Company in order that an arrangement might be made voluntarily for a restoration of the service from Central Park West and 86th Street to Astoria ferry for a single fare of five cents.

After this adjournment was taken, letters were written from time to time to the receivers of the Metropolitan Street Railway and the Second Avenue Company reminding them of the reason for the adjournment, of the necessity

of providing a through service for one fare, and of their legal obligation to do so. Three months have passed since this adjournment was taken, and other hearings have been held, at which the receivers did not appear or any one representing them; and still there is nothing to indicate that any arrangement is about to be consummated. The former service has not been restored, and apparently to-day conditions are precisely where they were last November after the change in the service. Under such circumstances it would seem that it is time for the Commission to take decided action and order the receivers of the Metropolitan Street Railway Company and the New York and Harlem Railroad Company, which secured the franchise, to comply with the law.

FRANCHISE PROVISIONS.

The facts regarding the legal situation are as follows:

The New York and Harlem Railroad Company was incorporated in 1831 by special act (chapter 263, Laws of 1831). This act authorized the building of a railroad, and the operation of the same "by the power and force of steam, of animals or of any mechanical or other power, or of any combination of them which the said company may choose to employ. The term of corporate existence was fixed at thirty years. In December, 1858, an ordinance was adopted by the Common Council of the City of New York providing for the separation of the line into a steam line and a horse-car line. The following year this grant was confirmed by an act of the Legislature (chapter 387, Laws of 1859), and the term of corporate existence of the company extended for thirty years from April 16, 1859. Later the period of corporate existence was further extended for five hundred years.

Chapter 240 of the Laws of 1872, passed April 16, 1872, granted to the Second Avenue Railroad Company franchise rights in 86th Street from Second Avenue to Avenue A; thence along Avenue A to 92d Street; thence through and along 92d Street to the East River. Section 2 of this act provides as follows:

"2. In the construction, operation or use of said road, as hereby authorized to be extended or constructed upon the streets and avenues above designated, should said company deem it necessary or proper to run upon, intersect, or use any portion of other railroad tracks, now laid, or which may hereafter be laid upon the streets and avenues above mentioned, then said company is hereby authorized to run upon, intersect and use the same, and in case agreement shall not be made with the owner or owners of such other railroad tracks in respect to the compensation or payment to be made therefor, then the amount of such compensation or payment shall be ascertained and determined in the manner provided by subdivision six of the twenty-eighth section of the act entitled 'An act to authorize the formation of railroad corporations and to regulate the same,' passed April second, eighteen hundred and fifty."

By Chapter 825 of the Laws of 1872, passed May 26, 1872, a franchise was granted to the New York and Harlem Railroad Company to extend its tracks in Madison Avenue from its tracks at 79th Street through and along Madison Avenue by single or double track to 86th Street; thence through and along 86th Street by single or double track to Avenue A; thence through and along Avenue A by single or double track to 92d Street; thence through and

along 92d Street by single or double track to Astoria ferry, East River. Section 2 of this act provides as follows:

"In the construction, use and operation by the said company of the tracks and extensions authorized by this act, the company shall have and exercise the same rights and privileges which are now possessed and exercised under former grants and laws; and may use said road in connection with the roads of other railroad companies in the said city, upon such terms as may be agreed upon between said company and other railroad companies."

This act not only granted authority to build this line but *required* its construction. Section 1 reads:

"The New York and Harlem Railroad Company are hereby authorized *and required* to extend their tracks in Madison Avenue * * * thence through and along Eighty-sixth Street, by single or double track to Avenue A; thence through and along Avenue A, by single or double track, to Ninety-second Street; thence through and along Ninety-second Street, by single or double track, to Astoria ferry, East river; * * *"

The grants of these two companies were made by the same Legislature and only six weeks apart. The two routes from Second Avenue eastward were identical. These facts and the language used indicate that the Legislature intended that the tracks east of Second Avenue should be constructed by one company and used by the two companies. In point of fact it appears that the tracks from Second Avenue eastward were constructed by the Second Avenue Railroad Company, and that operation was had over these tracks by the New York and Harlem Railroad Company under a track agreement with the Second Avenue Railroad Company. The tracks west of Second Avenue were constructed by the New York and Harlem Railroad Company.

On April 30, 1890, a track agreement was entered into between the two companies, whereby the New York and Harlem Railroad Company had the right in common with the Second Avenue Railroad Company to run its cars over the tracks of that portion of the 86th Street Crosstown line east of Second Avenue, and the Second Avenue Railroad Company had the right in common with the New York and Harlem Railroad Company to run its cars over that portion of the 86th Street Crosstown line west of Second Avenue.

On February 19, 1896, an agreement was entered into between the New York and Harlem Railroad Company and the Second Avenue Railroad Company with reference to the use of electrical conduits. This agreement recites that the New York and Harlem Railroad Company has a franchise to run its cars in East 86th Street east of Second Avenue and north on Avenue A to 92d Street ferry, but that for convenience it is using the tracks owned by the Second Avenue Railroad Company under an agreement dated April 30, 1890.

On June 11, 1896, as will appear more fully hereafter, the New York and Harlem Railroad Company leased its lines to the Metropolitan Street Railway Company, subject, among other things, to the track agreement and the agreement regarding the use of electrical conduits just mentioned."

TRACKS IN CENTRAL PARK.

Chapter 532 of the Laws of 1892 provides for the construction of railways in and near public parks in the cities of the State of New York which have

a population of 1,500,000 or upwards. Pursuant to the provisions of this act, a contract was entered into upon May 11, 1893, by the City of New York and the New York and Harlem Railroad Company, which provided for the construction and operation of a street surface railroad extending from Eighth Avenue on the west through Transverse Road No. 3 in Central Park, and thence through and along 85th Street from the easterly side of Central Park to and connecting with the tracks of the New York and Harlem Railroad Company laid on Madison Avenue. The city had already constructed tracks over a portion of the Transverse Road, and it was provided in this contract that the company might use as a portion of the route specified in the contract the tracks already existing in the Transverse Road, which had been constructed by the city. It was further provided that the said street surface railroad when constructed and the tracks and appurtenances thereof should belong to and be the property of the City of New York.

This contract contained also the following provisions (the words "party of the second part" referring to the New York and Harlem Railroad Company):

"And said party of the second part further agrees so soon as it has the legal right so to do, to equip and operate the said railroad and so long as said party of the second part or its successors enjoys the franchise of running through East Eighty-sixth Street to the Astoria Ferry at Ninety-second Street on the East River, the cars operated, by the party of the second part or its successors on said route, shall make continuous trips from said Eighth Avenue over the route hereinbefore described, and thence over the above mentioned branch of the party of the second part to the Astoria Ferry at Ninety-second Street.

Passengers shall be carried on said route at the fare of five cents with the privilege of being transferred at Madison Avenue north to Mott Haven and south to the postoffice, over the lines of the party of the second part, or its successors, without extra charge."

It was further provided by this contract that the contract might at any time be terminated by the City of New York by one year's notice in writing, and that in the event of the failure of the New York and Harlem Railroad Company to fulfill in all things the stipulations and agreements contained in the contract, then upon such failure and default the agreement should, at the option of the City of New York, immediately in all things terminate.

This portion of the 86th Street Crosstown line was constructed pursuant to this contract, and operation was had thereunder by the New York and Harlem Railroad Company until June 11, 1896, when the rights of the company over this portion of the 86th Street Crosstown line passed to the Metropolitan Street Railway Company under the lease hereinbefore referred to, and now to be more fully considered.

LEASE TO METROPOLITAN COMPANY.

On June 11, 1896, the New York and Harlem Railroad Company leased its lines to the Metropolitan Street Railway Company for the term of 999 years. The line in question is described in this lease as including:

"Also connecting with the double tracks on Madison Avenue at East Eighty-sixth Street; running thence easterly in and along East

*Eighty-sixth Street with double tracks to Second Avenue; thence on tracks of Second Avenue Railroad Company in and along East Eighty-sixth Street with double tracks to Avenue A, and thence northerly in and along Avenue A to East Ninety-second Street, and on Ninety-second Street to Astoria Ferry, East River; the right of using the tracks of the Second Avenue Railroad Company being under agreements dated April 30th, 1890, and February 19th, 1893, respectively. * * **

It is provided by this lease that the lessee, for itself, its successors and assigns, will assume and faithfully perform and carry out all the obligations of the lessor under several leases and agreements included in the property demised, including the agreement with the Mayor, Aldermen and Commonalty of the City of New York through the Department of Public Parks in relation to Transverse Road No. 3, dated May 11, 1893; also the agreement with the Second Avenue Railroad Company in relation to the use of tracks in 86th Street, dated April 30, 1890; also the agreement with the Second Avenue Railroad Company in relation to use of electrical conduit system, dated February 19, 1896. The lease further provides that the lessee "shall and will, at the expiration of this lease by lapse of time or otherwise, surrender the franchises, rights and privileges aforesaid, and all other aforesaid property, unimpaired by any act or default of the lessee."

LAW DISOBEYED.

It is under and by virtue of this lease that the receivers of the Metropolitan Street Railway Company still operate that portion of the 86th Street Crosstown line west of Second Avenue, but the receivers of this company, while operating the line as far east as Second Avenue, have ceased to operate east of Second Avenue, and switch their cars back at Second Avenue.

It seems clear that in so doing they are violating the provisions of the lease above quoted and referred to, and that the New York and Harlem Railroad Company has the right under the provisions of the lease to re-enter and repossess its property and franchises. This, however, is a matter for the New York and Harlem Railroad Company to decide. The question presented here is whether the Commission should compel the Metropolitan Street Railway Company, or its receivers, or the New York and Harlem Railroad Company to operate cars over that portion of the 86th Street Crosstown line east of Second Avenue.

As has been seen, the franchise grant of 1872 to the New York and Harlem Railroad Company covered not only that portion of the 86th Street Crosstown line east of Second Avenue, but also covered Madison Avenue from 79th Street to 86th Street, and covered 86th Street from Madison Avenue to Second Avenue. The latter portion of the line was constructed by the New York and Harlem Railroad Company, but the portion east of Second Avenue was constructed by the Second Avenue Railroad Company and used "for convenience" by the New York and Harlem Railroad Company. It appears to be conceded that the New York and Harlem Railroad Company has a franchise over this eastern portion of the line. It thus appears that the receivers of the Metropolitan Street Railway Company are operating only a portion of

the franchise of the New York and Harlem Railroad Company granted in 1872, and are not only failing to comply with the requirements of the franchise and of the lease above mentioned, but are exposing the whole franchise to the danger of forfeiture. The courts have clearly held that a railroad company must exercise the entire franchise granted to it, and that it cannot accept in part and reject in part; that there is no privilege granted or right obtained to operate a part thereof, and that the operation of only a part of a franchise is without legal sanction.

It is to be noted that the statute (Chapter 825 of the Laws of 1872) not only authorized but *required* the extension of the New York and Harlem Railroad Company's line over the route mentioned in the act, *including that portion which was coincident with the grant to the Second Avenue Railroad Company east of Second Avenue*. The statute is not permissive only. It is mandatory. The case is, therefore, even stronger against the company than in the ordinary case. The duty to operate this entire franchise rests primarily upon the New York and Harlem Railroad Company, which is the owner of the franchise. The Metropolitan Street Railway Company in the lease above mentioned undertook to perform all the duties of the New York and Harlem Railroad Company, and the receivers should now perform those duties.

The situation on this line is similar to that which recently existed on the line of the Union Railway Company on the White Plains Road leading to Mount Vernon. There the receiver of the Union Railway Company had ceased to operate cars farther north than 233d Street, although the cars of this company had formerly operated through to Mount Vernon. It appeared that in 1894 the village of Mount Vernon had granted to the predecessor of the Westchester Electric Railway Company a franchise on White Plains Road from Mount Vernon south to 233d Street, and on the same day had granted to the Union Railway Company a franchise over the same road from Mount Vernon south to 229th Street. These franchises provided that but one set of tracks should be built, over which cars should be operated by both companies. Under these franchises the Union Railway Company had constructed tracks from 229th Street to 233d Street, and the Westchester Electric Railway Company had constructed tracks from 233d Street to Mount Vernon.

The Union Railway Company, through an arrangement with the Westchester Electric Railway Company, had operated its cars over the entire line, and this operation had been continued until after the appointment of a receiver for the Union Railway Company. The receiver had tried to discontinue the operation of cars further north than 229th Street, but had been unable to do so by reason of the lack of switching facilities at 229th Street and by reason of his inability to secure the necessary permit to install a switch at this point, and had therefore been obliged to operate his cars as far north as 223d Street, at which point there was a switch. In so doing he had been operating a portion of the franchise granted to the Union Railway Company by the village of Mount Vernon, without operating the remainder, and application had been made to the United States Circuit Court by persons aggrieved asking that the receiver be instructed to operate the entire franchise.

The Circuit Court said:

"The Union Railway has a unitary franchise from 229th Street to the north line of South Mount Vernon, and certainly cannot operate a fraction of the line and fail to operate the rest without exposing itself to forfeiture of the entire franchise."

The receiver of the Union Railway Company stated to the court that he could not operate over the tracks of the Westchester Electric Railway Company without paying for the privilege, and that such operation would therefore be unprofitable. But the court held that this was no reason for failure to comply with the requirements of the franchise, and that the receiver of the Union Railway Company should therefore proceed to carry passengers under the South Mount Vernon franchise for the whole distance from 229th Street to the north line of South Mount Vernon, under whatever arrangements as to cars, service and transfer of passengers he might be able to settle upon with the receiver of the Westchester Railway Company and in conformity with the terms of the franchise mentioned.

In the case of the 86th Street Crosstown line, the New York and Harlem Railroad Company has a unitary franchise as follows: In Madison Avenue from 79th Street to 86th Street; through 86th Street to Avenue A (which lies east of Second Avenue), and in Avenue A to 92d Street, and in 92d Street to the river. But the receivers of the lessee of this company have voluntarily ceased to operate further east than Second Avenue, though still operating that portion of the franchise west of Second Avenue. In other words, they are operating only a fraction of the franchise, and are failing to operate the remainder.

The operation, so far as concerns 85th Street and Transverse Road, is by virtue of an agreement with the City of New York, under which the New York and Harlem Railroad Company agrees that so long as it or its successors enjoys the franchise of running through East 86th Street to the Astoria ferry at 92d Street on the East River, the cars operated by said company or its successors on said route shall make continuous trips from Eighth Avenue over the entire 86th Street Crosstown line, and shall carry passengers on said route at the fare of five cents, with the privilege of being transferred at Madison Avenue north to Mott Haven and south to the postoffice over the lines of said railroad company or its successors without extra charge; and agrees further that the agreement may be terminated by the City of New York by giving one year's notice in writing, or at any time in the event of the failure of the railroad company to comply in all things with the provisions of said agreement.

These provisions of this agreement having been violated, it is optional with the city whether to terminate the operating agreement between the city and the New York and Harlem Railroad Company, whereby cars are now operated over the tracks in 85th Street and Transverse Road. However, the city has not as yet done so, and operation is still had over this portion of the 86th Street Crosstown line. Therefore, under the statute this Commission not only has the power but is in duty bound to compel the receivers and the company to comply with the terms of the franchise, the State law and the contract with the city. If they do not do so, they should surrender the franchise in its entirety. Obligations are as binding as benefits.

Thereupon the Commission issued the following order:

In the Matter
of the
Complaint of J. T. EVANS,
Complainant,
vs.
NEW YORK AND HARLEM RAILROAD COM-
PANY, THE METROPOLITAN STREET RAIL-
WAY COMPANY and ADRIAN H. JOLINE and
DOUGLAS ROBINSON, as Receivers of said
Metropolitan Street Railway Company,
Defendants.

Case No. 1065,
Final Order.
March 12, 1909.

A hearing having been had in the above entitled matter on the 26th day of February, 1909, and the 1st day of March, 1909, before the Public Service Commission for the First District, Commissioner Maltbie presiding, said hearing having been had pursuant to hearing order in Case No. 1065 issued on the 19th day of February, 1909,

It is ordered,

(1) That said New York and Harlem Railroad Company, said Metropolitan Street Railway Company and said Adrian H. Joline and Douglas Robinson, as Receivers of said Metropolitan Street Railway Company, proceed to operate cars and transport passengers over that portion of the 86th Street Crosstown Line east of Second Avenue, in the Borough of Manhattan, City of New York, as well as over the remainder of said 86th Street Crosstown line, as required by law and by franchise obligations and requirements; said 86th Street Crosstown line being described as follows: Starting at Astoria ferry (92d Street and East River), thence south on Avenue A to 86th Street, thence west on 86th Street to Madison Avenue, thence south on Madison Avenue to 85th Street, thence west on 85th Street to Fifth Avenue, and thence west through Central Park by Transverse Road to 86th Street and Central Park West; and returning by the same route.

(2) That this order shall take effect on the 29th day of March, 1909, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

(3) That said New York and Harlem Railroad Company, said Metropolitan Street Railway Company and said Adrian H. Joline and Douglas Robinson as receivers of said Metropolitan Street Railway Company, notify the Public Service Commission for the First District on or before the 25th day of March, 1909, whether the terms of this order are accepted and will be obeyed.

New York and Long Island Traction Company and Long Island Electric Railway Company.— Exchange of transfers at the intersection of lines on New York Avenue, near the line of the Brooklyn Aqueduct.

This proceeding was begun in 1908 upon the complaint of Frederick K. Winslow against the companies for failure to issue transfers between the companies at the intersection of their lines on New York Avenue near the line of the Brooklyn Aqueduct.

The Commission issued the following order:

FREDERICK K. WINSLOW, Complainant, <i>against</i> NEW YORK AND LONG ISLAND TRACTION COMPANY and LONG ISLAND ELECTRIC RAILWAY COMPANY, Defendants.	}	Case No. 687, Discontinuance Order. December 21, 1909.
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Exchange of Transfers at intersection of lines on
 New York Avenue near the line of the Brooklyn
 Aqueduct.

Ordered: That the above entitled proceeding be and the same hereby is discontinued, without prejudice to an order or action thereon by the Commission in respect to any of the matters covered by the complaint and the answers herein or any proceedings thereon.

**New York Central and Hudson River Railroad Company and
 New York and Harlem Railroad Company.—** Train service in
 The Bronx and rates of fare.

Case No. 1161

Complaint Order
 Extension Orders
 Hearing Order

This proceeding was begun upon the complaint of the Taxpayers' Alliance of the Borough of The Bronx of the City of New York against the New York Central and Hudson River Railroad Company and the New York and Harlem Railroad Company alleging a lack of sufficient trains to adequately take care of traffic offered and also alleging an excessive fare. The Commission, on September 14, 1909, issued a complaint order (see blank form of complaint order, page 7). The companies on September 23d applied for an extension of time within which to answer the complaint order and the Commission on September 24th, and on September 29th, issued orders (see blank form of extension order, page 8) extending the time of the companies to October 1st and subsequently to October 5th.

The Commission, on October 26th, issued an order (see blank form of hearing order, page 8) directing that a hearing be had

on November 17th, upon the matters set forth in the complaint. Hearings were had on November 17th, 22d and 26th, when the matter was adjourned to January 7, 1910.

Richmond Light and Railroad Company and Staten Island Midland Railway Company.—Exchange of transfers on Staten Island.

Case No. 739

Opinion of the Commission
Final Order
Modifying Order
Rehearing Order
Order denying petition for
abrogation of Final Order

This proceeding was begun in 1908 upon the complaint of the Staten Island Chamber of Commerce against the companies demanding that transfers be issued by them. Hearings were held in 1908 and on January 13, 1909, and subsequent dates until February 9, 1909.

OPINION OF THE COMMISSION.

(Adopted June 4, 1909.)

COMMISSIONER MCCABOLL:—

The complainant demands transfers to be issued and received between the Richmond Light and Railroad Company and the Staten Island Midland Railway Company at five points. One of these points is at St. George, where there is but little demand for transfers, and the complainant practically withdrew the complaint as to this point. Of the other four points, three are within the limits of the old village of New Brighton and one is at Port Richmond. Of the three points within the village of New Brighton all are on the Manor Road and Broadway line of the Staten Island Midland Railway Company, one point being at the intersection of Broadway and Richmond Terrace, where the Midland tracks on Broadway approach within twenty feet of the Richmond Light and Railroad tracks on the Richmond Terrace. A second point is at the intersection of Broadway and Castleton Avenue, where there is actual connection between the tracks of the Midland and the Richmond Light and Railroad Company. The third point is at the intersection of Castleton Avenue and Columbia Street, where the tracks of the Richmond Light and Railroad Company on lower Columbia Street meet the tracks of the Staten Island Midland Railway Company on Castleton Avenue and upper Columbia Street.

The franchise under which the Staten Island Midland Railway Company operates has no clause in it requiring transfers nor is there any such clause

in the franchise of the Richmond Light and Railroad Company under which it operates the Richmond Terrace line or the Castleton Avenue line. There is, however, an agreement by both the Richmond Light and Railroad Company and the Staten Island Midland Railway Company with the village of New Brighton, contained in franchises subsequent to the franchise which I have just mentioned, by virtue of which each of the railroad companies agrees to receive passengers by transfer from and to transfer passengers to the line of every street surface railroad within said village whose lines of railroad "connect with or intersect its lines of railroad" for a fare which shall not exceed five cents.

I believe that by the acceptance of these later franchises both the Staten Island Midland Railway Company and the Richmond Light and Railroad Company are under obligation to issue transfers in the village of New Brighton to any other railroad "whose lines of railroad connect with or intersect its lines."

The limits of the old village of New Brighton include St. George and all the territory lying between St. George and Port Richmond, on the north shore, and I am of the opinion that by obtaining transfers from the Manor Road line of the Midland to the Castleton Avenue line of the Richmond Light and Railroad Company a great convenience will result for people living in the interior of Staten Island who can, in this way, for five cents reach the ferry at St. George. By issuing the transfers the railroad companies will not necessarily be losers, as it appears that many of those living in the interior of the island now walk to the Staten Island Rapid Transit Company's stations. If a transfer were issued from the Manor Road line many of those would undoubtedly ride to St. George.

Under section 104 of the Railroad Law when one corporation, by operating agreement, uses the tracks of another, transfers must be given between the two roads, entitling passengers "to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare." The Richmond Light and Railroad Company, by virtue of an operating agreement, runs its cars over the tracks of the Staten Island Midland Railway Company between Columbia Street and Broadway. There is, therefore, this additional reason for ordering the issue of transfers.

The fourth point named in the complaint is the junction of Jewett Avenue and Richmond Terrace. This point is not within the limits of the old village of New Brighton and is not governed by the franchise agreements referred to above. While I believe the right to transfer might possibly be supported at this point, I think it best at the present time to confine the order to the points in the village of New Brighton.

To sum up, my opinion is and the facts show that both companies named in the hearing order are under legal obligation to issue transfers demanded by the complainant, and I therefore recommend the adoption of the order submitted herewith, directing the transfers at the three points named.

Thereupon the Commission issued the following order:

CHARLES H. BLAIR, Chairman, Committee
Staten Island Chamber of Commerce,
Complainant,

against

RICHMOND LIGHT AND RAILROAD COM-
PANY and STATEN ISLAND MIDLAND RAIL-
WAY COMPANY, Defendants.

Case No. 739,
Final Order.
June 4, 1909.

“Exchange of Transfers on Staten Island.”

A hearing order having been duly made by the Commission September 25, 1908, upon the complaint of Charles H. Blair, Chairman of Committee of One Hundred of the Chamber of Commerce, and answer of the Staten Island Midland Railway Company verified September 15, 1908, and answer of the Richmond Light and Railroad Company verified September 15, 1908, and a hearing having been duly held before the Commission pursuant to said hearing order on October 1, 1908, October 8, 1908, November 6, 1908, November 13, 1908, December 21, 1908, January 13, 1909, January 21, 1909, and February 4, 1909, Commissioner McCarroll presiding, Charles H. Blair, Esq., complainant, appearing in person, Adrian H. Larkin, Esq., appearing for the Richmond Light and Railroad Company and for the Staten Island Midland Railway Company, defendants, and Arthur Du Bois, Esq., Assistant Counsel, attending for the Commission, and the Commission being of the opinion after said hearing that the rates, fares and charges demanded and collected by the Staten Island Midland Railway Company and by the Richmond Light and Railroad Company for the transportation of persons within the First District at certain points are in violation of provisions of the law and in violation of the terms and conditions of the franchises of the said Staten Island Midland Railway Company and of the franchises of the Richmond Light and Railroad Company in that each of the said companies at certain points refuses upon demand and without extra charge to give to each passenger paying one single fare a transfer entitling such passenger to one continuous trip over the tracks of both the said railroad companies,

Now, therefore, it is

Ordered: (1) That the Richmond Light and Railroad Company and the Staten Island Midland Railway Company on and after June 15, 1909, upon demand and without extra charge, shall give to each passenger whose trip begins within the limits of the old village of New Brighton and who shall have paid one single fare of five cents, a transfer entitling such passenger to one continuous trip to any point in the limits of the old village of New Brighton over the line granting such transfer and over the lines of railroad operated by the Staten Island Midland Railway Company or by the Richmond Light and Railroad Company which connect with or intersect the line of railroad on which the transfer was given, and the following points:

- (a) Corner of Broadway and Richmond Terrace, West New Brighton.
- (b) Corner of Broadway and Castleton Avenue, West New Brighton.
- (c) Corner of Castleton Avenue and Columbia Street, West New Brighton.

(2) That the Richmond Light and Railroad Company and the Staten Island Midland Railway Company on and after June 15, 1909, at the points named in paragraph (1) above shall receive from intersecting and connecting lines of railroad by transfer all passengers whose trips begin within the limits of the old village of New Brighton and shall transport such passengers on a continuous trip without extra charge to any point within the limits of the old village of New Brighton.

Further ordered: That except as above stated this order is to take effect at once, and is to continue in force until further order of the Commission.

Further ordered: That permission be and it hereby is granted the Richmond Light and Railroad Company and the Staten Island Midland Railway Company to put into effect on or before June 15, 1909, changes in rates and an amended schedule indicating such changes in rates in accordance with the provisions contained in paragraph (1) and (2) of this order, giving one day's notice to the public and to the Public Service Commission for the First District of the said changes.

Further ordered: That this order be served upon the complainant and upon the Richmond Light and Railroad Company and Staten Island Midland Railway Company.

Further ordered: That this order be served upon the complainant and upon Richmond Light and Railroad Company and Staten Island Midland Railway Company, said companies notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

The companies having, on June 9th, made application for a modification of the final order, the Commission issued the following order:

CASE NO. 739, ORDER MODIFYING FINAL ORDER.

(June 11, 1909.)

Application in writing dated June 9, 1909, having been made by the Richmond Light and Railroad Company and Staten Island Midland Railway Company to this Commission for a modification of Final Order in this proceeding made by the Commission June 4, 1909, and said companies having asked that the date of taking effect of the provisions calling for exchange of transfers and the date for notifying the Public Service Commission whether the order would be obeyed should be extended for thirty days,

Now, therefore, it is

Ordered: That Final Order made herein June 4, 1909, be and the same hereby is modified by the substitution of the words "July 15" for the words "June 15" in line 2 of paragraph numbered 1 of the said Final Order, and by the substitution of the words "July 15" for the words "June 15" in line 2 of paragraph numbered 2 of said Final Order, and that the last provision in said Final Order be modified to read as follows:

"Further ordered: That on or before July 5, 1909, the Richmond Light and Railroad Company and the Staten Island Midland Railway Company notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed."

Further ordered: That this order take effect immediately.

The companies, on October 29th, made application to the Commission for a rehearing as to certain matters contained in said final order and order modifying the final order; the Commission, on November 9th, issued an order directing (see blank form of hearing order, page 8) that a rehearing be had on November 18th. Hearings were held on November 18th and 24th. Thereafter, the Commission issued the following order:

CASE NO. 739, ORDER DENYING PETITION FOR ABERGATION OF FINAL ORDER.

(December 24, 1909.)

A final order in the above entitled matter having been made on June 4, 1909, and having been modified by order made June 11, 1909, and the defendants having made application to this Commission on October 29, 1909, for a

rehearing in respect to the matters determined in said orders, and the defendants having asked that the said orders be set aside; and a rehearing having been had in respect thereto on November 18, 1909, and on November 24, 1909, before Mr. Commissioner McCarroll, presiding, Albert Stickney, Esq., and Adrian H. Larkin, Esq., appearing for the defendants and Arthur DuBona, Esq., Assistant Counsel, attending for the Commission and the Commission being of opinion after a rehearing that the said order as modified is not in any respect unjust or unwarranted and that the same should not be abrogated, changed or modified,

Now, therefore, it is

Ordered: That the application of the defendants for an order setting aside the final order heretofore made as modified be and the same hereby is denied.

Staten Island Railway Company.— Refusal to accept tickets presented more than three days after purchase, for use between St. George and Tottenville.

This proceeding was begun in 1908 upon the complaint of Albert H. McGeehan against the company for refusal to accept tickets presented more than three days after purchase, for use between St. George and Tottenville. The matters complained of in the complaint having been satisfied by the company, the Commission issued the following order:

ALBERT H. MCGEEHAN,	Complainant,
	<i>against</i>

STATEN ISLAND RAILWAY COMPANY,	
	Defendant.

“Refusal to accept tickets presented more than three days after purchase, for use between St. George and Tottenville.”

Case No. 301,
Discontinuance Order.
December 21, 1909.

The matters complained of in the complaint having been satisfied,
It is ordered: That the above entitled proceeding be, and the same hereby is, discontinued.

Staten Island Rapid Transit Railway Company and Staten Island Railway Company.— Passenger rates on Staten Island.

Case No. 531

Opinion of the Commission
Dismissal Order

This proceeding was begun in 1908 upon the complaint of the

Fifth Ward Improvement Association of the Borough of Richmond against the companies, alleging that the rates of fare between St. George and Tottenville and intermediate points are too high, and also alleging discrimination. Hearings were held in 1908, and on January 14, 1909, and subsequently, until February 3, 1909.

OPINION OF THE COMMISSION.

(Adopted June 22, 1909.)

COMMISSIONER MCCARROLL:—

This is a complaint made by members of the Fifth Ward Improvement Association of the Borough of Richmond, through Mr. Fred H. Cozzens, its Secretary. Proceedings were begun in July, 1908, a hearing being given on the 8th of that month. At one which was held on July 21st the complainant's attorney, Mr. Pecora, stated that he had found the prosecution of the complaint would require much more extensive investigation and examination of the facts connected with the operation of the railroads involved than he had anticipated and requested an adjournment until the fall so that he might have an opportunity of preparing the evidence. An adjournment was, therefore, taken until November, since which date a number of hearings were held, the final one being on February 3d. Later, the complainant Association filed an argument by its Secretary, while the railroad companies did not submit any brief.

The complaint is against the Staten Island Rapid Transit Railway Company and the Staten Island Railway Company.

The Staten Island Railway operates over its own tracks from Tottenville to Clifton and over the tracks of the Staten Island Rapid Transit Railway from Clifton to St. George. The distance between Clifton and St. George is a fraction less than two miles. Both roads are steam railroads and double tracked except for a short distance over the Staten Island Railway. The line runs through a sparsely settled district between Tottenville and Clifton.

The complaint alleges:

First: That the charges between St. George and Tottenville and between St. George and intermediate points are too high.

Second: That there is a discrimination, because the Staten Island Rapid Transit Railway Company on the North and South Shore lines charges never more than five cents for trips as long as seven miles, while the distance between St. George and Tottenville, as stated in the complaint is about fourteen miles.

The complaint is only as to the single trip and round trip tickets and is not against the commutation rate which is admitted to be reasonable, amounting as it does to about \$22½ from Tottenville to New York and return, a distance of about forty miles. A single trip ticket from St. George to Tottenville is \$.50 for the fourteen miles. The round trip rate between these points is \$.50 for the twenty-eight miles, which is rather less than two cents a mile.

In the course of the hearing much time was given up to an examination of the annual reports of the Staten Island Railway Company, the Commission's statistical bureau having made an exhaustive analysis of the companies' operations based upon these reports. From these it appeared that for more than the last five years the Staten Island Railway Company has fallen far short of earning operating expenses, while the Staten Island Rapid Transit Company has been making profits. The investigation into the accounts of these companies was prolonged, as it was charged that the annual reports seriously misrepresented the financial condition of the Staten Island Railway Company, or that in the apportionment of expenses of operation the Staten Island Railway Company was made to bear more than a proper share of such expense, thus making a showing of unprofitable results.

The evidence showed that in operation the two roads were practically under one management. As an illustration, coal purchased by the Staten Island Rapid Transit Railway Company was sold to the Staten Island Railway Company; repairs on the rolling stock were made in one set of shops and the time spent charged to the company operating it. This joint management makes it extremely difficult properly to differentiate the amount of expenses of operation that should be charged to each line. While the evidence shows that the operating expenses charged against the Staten Island Railway Company are heavier than those charged against the Staten Island Rapid Transit Company, though the former does not have the heavy freight trains to haul which are operated by the latter, yet it does not sustain the contention on the point of excessive charge against that company to a material extent; nor does it sustain the allegation that excessive amounts making an unfair burden were charged against the Staten Island Railway Company for coal.

It was also contended that the amount paid to the Staten Island Rapid Transit Railway Company by the Staten Island Railway Company, amounting to about \$50,000 a year, was excessive for the use of the tracks between Clifton and St. George, a distance of less than two miles, especially in view of the fact that the Staten Island Railway Company pays all the operating expense of running the train and engine between those points. The evidence, however, showed that the charge of this amount was the actual sum shown to have been collected of five cents for each passenger so carried over this part of the line of the Staten Island Rapid Transit Railway Company.

At the hearing there were introduced in evidence tariff sheets of various roads giving a service within twenty miles of New York. As a result of the comparison, it appears that the rates do not greatly differ from those charged on such lines as the New York, New Haven & Hartford Railroad, New York Central — Hudson Division — Delaware, Lackawanna & Western Railroad, West Shore Railroad and the Erie Railroad, these being the roads with which comparisons were made. The Staten Island Railway Company's round trip rate is fifty cents for fourteen miles, while on seven of the other roads examined it is forty-eight cents for about the same distance, while the number of passengers carried by these other lines is many times larger than those of the Staten Island Railway Company; and the number of passengers carried is a

most important factor in the making of rates. Whether a large growth of population and consequent increase of travel will at some time in the future enable the Staten Island Railway Company to operate at a lower rate is something that can only be determined when the condition comes about. The contention of the complainant is that a lower fare would induce such increase; but while that may be a point to be considered, it is not a basis upon which the Commission can act in this case.

In view of all the facts, and the evidence, it appears that the fares on the Staten Island Railway are not unjust or unreasonable for the service rendered, and in consideration of the unfavorable financial results of operation to the companies there does not seem to be any ground upon which the Commission would be justified in ordering a reduction of rates. I, therefore, recommend that the complaint be dismissed, and the adoption and issuance of the accompanying order to that effect by the Commission.

Thereupon the Commission issued the following order:

FIFTH WARD IMPROVEMENT ASSOCIATION
OF THE BOROUGH OF RICHMOND, NEW
YORK CITY, Complainant,

against

STATEN ISLAND RAPID TRANSIT RAILWAY
COMPANY and the STATEN ISLAND RAIL-
WAY COMPANY, Defendants.

Case No. 531,
Order Dismissing
Complaint.
June 22, 1909.

" Passenger rates on Staten Island."

A hearing order having been duly made by the Commission on May 26, 1908, upon the complaint of the Fifth Ward Improvement Association of the Borough of Richmond, New York City, dated December 9, 1907, and answer of the Staten Island Railway Company, dated May 23, 1908, and the answer of the Staten Island Rapid Transit Railway Company, dated May 23, 1908, and a hearing having been duly held before the Commission pursuant to said hearing order on July 8, July 15, July 21, November 10, November 13, November 18, November 25, December 7, December 14, 1908, January 20, January 26 and February 3, 1909, Mr. Commissioner McCarroll presiding, Messrs. Ridgeway & Dessar, appearing for the complainant, Joseph P. Cotton, Jr. Esq., appearing for the Staten Island Railway Company and the Staten Island Rapid Transit Railway Company, Arthur DuBois, Esq., Assistant Counsel to the Public Service Commission for the First District, attending for the Commission, and the Commission being of opinion after the said hearing that the rates charged for passenger transportation between Tottenville and St. George and intermediate points in the Borough of Richmond, City of New York, on the Staten Island Railway Company and the Staten Island Rapid Transit Railway Company are not unjust, unreasonable, unjustly discriminatory or unduly preferential or in violation of any provision of law;

Now, therefore, it is

Ordered: That the complaint herein be and the same hereby is in all respects dismissed.

Further ordered: That a copy of this order be served on the Staten Island Railway Company and the Staten Island Rapid Transit Railway Company and on the complainant.

Union Railway Company of New York City, and Westchester Electric Railroad Company.— Excess fare from points south of, to points north of 233d Street, Wakefield.

Case No. 1162

Complaint Order

Hearing Order

Discontinuance Order

This proceeding was begun upon the complaint of the Tax and Rent Payers' Organization of Wakefield, by James J. McGuire, Chairman, against the Union Railway Company and Westchester Electric Railroad Company alleging an excessive fare between points below 233d Street and points above said street. The Commission on September 17, 1909, issued a complaint order (see blank form of complaint order, page 7), and on October 1st, directed (see blank form of hearing order, page 8) that a hearing be had on October 11th, upon the matters contained in said complaint. Hearings were had on October 11th and 15th. The Commission issued the following order:

TAX AND RENT PAYERS' ORGANIZATION
OF WAKEFIELD, NEW YORK CITY, by
JAMES J. MCGUIRE, Chairman, Complainants.

against

THE UNION RAILWAY COMPANY and WEST-
CHESTER ELECTRIC RAILROAD COMPANY,
Defendants.

Case No. 1162,
Order of Discontinuance
October 22, 1909.

"Excess fare between points below and points
above 233d Street, Wakefield."

A hearing having been had in the above entitled matter on October 11 and October 15, 1909, before Mr. Commissioner Eustis, presiding. Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, James J. McGuire, Esq., appearing for the complainant. Messrs. Bowers & Sands appearing for the Union Railway Company and Arthur M. Johnson, Esq., appearing for the Receiver of the Westchester Electric Railroad Company; and testimony having been taken upon said hearing; and said hearing having been closed on October 15, 1909, on the understanding that the Receiver of the Westchester Electric Railroad Company would on October 18, 1909, put into effect regulations that would satisfy the demand of the complaint; and the Commission having received a letter from said James J. McGuire dated October 20, 1909, stating that the matters complained of have been satisfied.

Now, therefore, it is

Ordered: That the said proceeding be and the same hereby is discontinued and that this order be filed in the office of the Commission. It is

Further ordered: That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by the hearing order herein or the proceedings thereon. It is

Further ordered: That copies of this order be served on the complainant and on the receiver of the Westchester Electric Railroad Company.

Annual and Other Reports and Information Required to be Filed by Corporations.

Steam railroad corporations.—Form of annual report.

In the Matter
of the
Form of annual report to be filed by STEAM
RAILROAD CORPORATIONS within the juris-
diction of the Public Service Commission for
the First District in accordance with section 46
of the Public Service Commissions Law.

Case No. 1124.
Filing Order,
Extension Order,
Order approving and
prescribing the form
of annual report,
etc.
June 25, 1909.

It is hereby ordered, That the form of annual report prescribed by the Public Service Commission of the Second District for steam railroad corporations subject to its jurisdiction, for the year ending June 30, 1909, be and the same hereby is approved and prescribed by this Commission as the form of annual report for the year ending June 30, 1909, required to be made and filed with this Commission on or before September 30, 1909, by every railroad corporation owning, controlling or operating any railroad on which steam is used as the motive power; provided that railroad corporations which own but do not operate such railroad may file the abbreviated form provided by the Public Service Commission of the Second District for lessor companies.

Ordered, That this order take effect immediately and continue in force until the expiration of the fiscal year ending June 30, 1910.

Ordered, That the Secretary of this Commission serve in the manner prescribed by law upon each of the said corporations, a certified copy of this order and a copy of the form of annual report hereby prescribed and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extensions of the time within which reports are returnable except for cause duly shown.

The Staten Island Railway Company and the Staten Island Rapid Transit Railway Company having made application in writing for an extension of time for filing the report required by the filing order, the Commission on October 5th extended their time to October 11, 1909 (see blank form of extension order, page 8).

Steam Railroad Corporations.— Quarterly report required to be filed.

In the Matter
of
Quarterly Reports to be made and filed by STEAM
RAILROAD CORPORATIONS.

Case No. 1175,
Filing Order.
October 29, 1909.

It is hereby ordered, That the form of quarterly report for steam railroads prepared by the Chief Statistician of this Commission and printed under that designation as Serial Form No. 2185, a copy of which form is now before this Commission, be and the same hereby is approved and prescribed as the form for quarterly reports to be made to the Commission by railroad corporations hereinafter mentioned within its jurisdiction; that such copy duly authenticated by the Secretary of the Commission be filed in its archives, and that said copy so authenticated and filed shall be deemed the original form prescribed hereunder:

Ordered, That beginning as of July 1, 1909, blanks embodying the said form shall be sent to every such railroad corporation owning, controlling or operating any railroad on which steam is used as the principal motive power, and that every such railroad corporation make and file with the Commission within six weeks after the close of the quarter ending September 30, 1909, a report for such quarter in the form by this order prescribed:

Ordered, That within six weeks after the close of every succeeding quarterly period until this order is modified or withdrawn every such railroad corporation make and file with the Commission a report for said quarter in said form.

Street and Electric Railroad Corporations.— Form of annual reports.

Case No. 1118

Order approving and prescribing
Form of Annual Report
Extension Orders

In the Matter
of the
Form of annual report to be filed by STREET
AND ELECTRIC RAILROAD CORPORA-
TIONS within the jurisdiction of the Public
Service Commission for the First District in
accordance with Section 46 of the Public Service
Commissions Law.

Case No. 1118,
Order approving and
prescribing the
form of annual re-
port, etc.

June 18, 1909.

It is hereby ordered, That the form of annual report for street and electric railways for the year ending June 30, 1909, prepared by the Chief Statistician under the direction of this Commission, and printed and designated as "Annual Report Form E 1908-9, Street and Electric Railways" (Serial Form No. 2161), a copy of which is now before this Commission, be and the same hereby is approved; that such copy duly authenticated by the Secretary of

the Commission be filed in its archives, and that said copy so authenticated and filed shall be deemed the original form prescribed hereunder.

Ordered, That the said form so designated "Annual Report Form E 1908-9, Street and Electric Railways" be and is hereby prescribed by this Commission as the form of annual report for the year ending June 30, 1909, required to be made and filed with said Commission on or before September 30, 1909, by every street railroad corporation and by every railroad corporation owning, controlling or operating any railroad on which electric energy is used as the principal power for the propulsion of cars.

Ordered, That this order take effect immediately and continue in force until the expiration of the fiscal year ending June 30, 1910.

Ordered, That the Secretary of this Commission serve in the manner prescribed by law upon each of the said corporations on or before June 30, 1909, a certified copy of this order and two copies of the form of annual report hereby prescribed and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extensions of the time within which reports are returnable except for cause duly shown, and it is further

Ordered, That in pursuance of Section 23 of the Public Service Commissions Law every person and corporation so served notify the Commission forthwith in writing of the receipt of the said certified copy of this order and the forms of annual report aforesaid, and that in the case of a corporation such notification be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service.

The companies hereinbelow named having made applications in writing for extensions of the time within which to file their annual reports in compliance with the above order, orders extending the time within which said companies should file their annual reports were issued in substantially the following form:

(Blank Form)

In the Matter
of the
Form of Annual Report to be filed by STREET
AND ELECTRIC RAILROAD CORPORA-
TIONS within the jurisdiction of the Public
Service Commission for the First District in
accordance with Section 46 of the Public Ser-
vice Commissions Law.

Case No. 1118.
Extension Order.

An order having been duly made herein on June 18, 1909, approving and prescribing the form of annual report to be filed by Street and Electric Railroad Corporations within the jurisdiction of the Public Service Commission for the First District, and application in writing having been made in behalf of the for an extension of time within which to file said report, and reasonable ground appearing therefor, it is

Ordered, That the time of the Company for filing said annual report, be, and the same hereby is, extended from to
Time extended to October 15, 1909:

Dry Dock, East Broadway & Battery Railroad Company;
Forty-second Street, Manhattanville & St. Nicholas Avenue Railway
Company;
Long Island Electric Railway Company;
New York & Long Island Traction Company;

New York & Queens County Railway Company;
Third Avenue Railroad Company;
Union Railway Company of New York City.

Time extended to October 26, 1909:
Hudson & Manhattan Railroad Company.

The Hudson & Manhattan Railroad Company having made a subsequent application, its time for filing the annual report was further extended to November 1, 1909.

Time extended to November 15, 1909:
Richmond Light and Railroad Company;
Southfield Beach Railroad Company;
Staten Island Midland Railway Company.

Time extended to November 30, 1909:
City Island Railroad Company;
Metropolitan Street Railway Company;
Pelham Park Railroad Company.

Brooklyn City and Newtown Railroad Company.—Amending annual report.

Case No. 792
Extension Order

The Commission, in 1908, issued an order amending the original filing order in this proceeding. The company, on June 22, 1909, made application for an extension of time within which to comply with the provisions of said final order as amended. The Commission, on June 25th, extended the time of said company to September 15, 1909. (See blank form of extension order, page 8.)

Street and Electric Railroad Corporations.—Filing quarterly reports.

Case No. 1138
Filing Order
Extension Order

In the Matter
of
Quarterly Reports to be made and filed by
STREET RAILROAD CORPORATIONS and
by ELECTRIC RAILROAD CORPORATIONS
within the jurisdiction of the Public Service
Commission for the First District.

Case No. 1138,
Filing Order.
July 13, 1909.

It is hereby ordered, That the "form for quarterly report of street and electric railways" prepared by the Chief Statistician of this Commission on

the basis of the classification of accounts adopted by the Commission December 8, 1908, and printed under that designation as Serial Form No. 2165, a copy of which form is now before this Commission, be and the same hereby is approved and prescribed as the form for quarterly reports to be made to the Commission by street railroad corporations and by railroad corporations hereinafter mentioned within its jurisdiction; that such copy duly authenticated by the Secretary of the Commission be filed in its archives, and that said copy so authenticated and filed shall be deemed the original form prescribed hereunder:

Ordered, That beginning as of July 1, 1909, blanks embodying the said form shall be sent to every such street railroad corporation and to every such railroad corporation owning, controlling or operating any railroad on which electric energy is used as the principal motive power, and that every such street railroad corporation and every such railroad corporation make and file with the Commission within six weeks after the close of the quarter ending September 30, 1909, a report for such quarter in the form by this order prescribed:

Ordered, That within six weeks after the close of every succeeding quarterly period until this order is modified or withdrawn every such street railroad corporation and every such railroad corporation make and file with the Commission a report for said quarter in said form.

The Hudson and Manhattan Railroad Company having made application to the Commission on October 26th, for an extension of time within which to file the quarterly report as of March 31st and June 30th, the Commission, on October 26th, extended the time of the company to file such information to November 1, 1909 (see blank form of extension order, page 8).

Railroad, Street Railroad, Gas and Electrical Corporations.—

Lists of officers, including directors, required to be filed.

In the Matter
of a
List of Officers and Directors, and changes thereto,
of the RAILROAD, STREET RAILROAD, GAS
and ELECTRICAL CORPORATIONS within the
jurisdiction of the Public Service Commission
for the First District.

Case No. 1090,
Filing Order.
March 26, 1909.

Ordered, That every railroad corporation, street railroad corporation, gas corporation and electrical corporation within the First District, shall file on or before April 10, 1909, a complete list of the officers, including the directors, of said corporation, and

Further ordered, That said corporations shall report to this Commission within five days thereafter every change from said list, giving the name of the office, the name of the person who held the office prior to such change, and the name of the person who has been elected to such office.

Street Railroad Corporations.—Monthly reports of operations.

Case No. 1137
Filing Order
Extension Orders

In the Matter
of
Monthly Reports of STREET RAILWAY
OPERATIONS.

Case No. 1137,
Filing Order.
July 13, 1909.

It is hereby ordered, That every street railroad corporation within the jurisdiction of the Commission, and every railroad corporation within such jurisdiction which now or hereafter operates any cars or trains by means of electric energy or other motive power than steam, file with the Commission a monthly report of its operations on and after July 1, 1909, in accordance with the form designated as "Monthly Report of Street Railway Operations" (Serial Form No. 2164), said form being based upon the classification of accounts prescribed on December 8, 1908, for all street and electric railroad corporations within the jurisdiction of the Commission; and that said form be and the same hereby is approved and prescribed as the form for said monthly report; and

WHEREAS, the Commission is in need of information as to each and every question contained on pages one, five and six of the said form, it is further

Ordered, That each and every such corporation make specific answer monthly to each and every question upon pages one, five and six of such form. And it is further

Ordered, That beginning as of July 1, 1909, blanks, embodying the said form, shall be sent to every such corporation, and that each and every such corporation file with the Commission a report of its said operations during the month of July, 1909, in the form aforesaid, and make specific answer to each and every such question contained upon pages one, five and six of such form in respect of the said month of July, 1909, within six weeks after the close of that month. And it is further

Ordered, That each and every such corporation shall thereafter, until this order is withdrawn or modified, file a report of its operations, in the form aforesaid, and make specific answer to every such question upon pages one, five and six of such form, in respect of and as to each succeeding calendar month, within six weeks after the close of such month.

Certain companies having made application in writing for extensions of the time within which to file certain of their reports in compliance with the above order, orders extending the time of the said companies were issued in substantially the following form:

(Blank Form)

In the Matter
of
Monthly Reports of STREET RAILROAD
OPERATIONS.

Case No. 1137,
Extension Order.

Application in writing having been made by the hereinafter named companies for an extension of the time for filing the report hereinafter described and reasonable ground appearing therefor, it is

Ordered, That the time of the following named companies for filing their respective reports of operations during the month of _____, 1909, as required by the filing order duly adopted in the above entitled matter on July 13, 1909, be and the same hereby is extended to _____.

The time of the Coney Island and Brooklyn Railroad Company for filing the report of its operations during the month of July, 1909, was extended to September 15, 1909.

The time of the Hudson and Manhattan Railroad Company for filing statements of operating expenses and income deductions of the report of its operations for the month of July was extended to October 11, 1909, and its time for filing the remainder of said report was extended to September 21, 1909. The company subsequently made application for further extension of time for filing its said report which was granted and the time extended to October 11, 1909. On October 8, 1909, the company made application for an extension of time within which to file its report of operations for the months of July and August, which was granted, and the time extended to October 26, 1909, and on a subsequent application, made October 25, 1909, the time for filing the said reports for July and August was extended to November 1, 1909.

The time of the Interborough Rapid Transit Company for filing reports of its operations during the month of July was extended to September 25, 1909.

The time of the Richmond Light and Railroad Company, the Southfield Beach Railroad Company, and the Staten Island Midland Railway Company for filing their respective reports of operations during the month of July, 1909, was extended to September 28, 1909.

The time for filing statements of operating expenses and income deductions of their respective reports of operations during the month of July, 1909, was extended to October 10, 1909, upon written applications of each of the following companies:

Third Avenue Railroad Company;
Dry Dock, East Broadway and Battery Railroad Company;
Forty-second Street, Manhattanville and St. Nicholas Avenue Railroad Company;
Union Railway Company of New York City;
Kingsbridge Railway Company.

The time of the following named companies for filing their respective reports of operations during the month of July, 1909, was extended to September 21, 1909:

Bush Terminal Company;
 Bush Terminal Railroad Company;
 Long Island Electric Railway Company;
 Marine Railway Company;
 New York City Interborough Railway Company;
 New York and Long Island Traction Company;
 New York and Queens County Railway Company;
 Ocean Electric Railway Company;
 Westchester Electric Railroad Company.

Railroad and Street Railroad Corporations Having no Roads in Commercial Operation.— Form of annual report.

In the Matter
 of the
 Form of Annual Report to be Filed by RAILROAD
 AND STREET RAILROAD CORPORATIONS
 having no road in commercial operation.

Case No. 1119,
 Filing Order.
 June 22, 1909.

It is hereby ordered, That the form of annual report for Inchoate and Dormant Railroad and Street Railroad Corporations (Serial Form No. 2163) for the year ending June 30, 1909, prepared by the Chief Statistician under the direction of this Commission, and printed and designated as "Annual Report Form C 1908-9," be and the same hereby is approved; that such copy duly authenticated by the Secretary of the Commission be filed in its archives, and that said copy so authenticated and filed shall be deemed the original form prescribed hereunder.

Ordered, That the said form designated "Annual Report Form C 1908-9," be and hereby is prescribed by this Commission as the form of annual report for the year ending June 30, 1909, required to be made and filed with said Commission on or before September 30, 1909, by every railroad corporation organized for the purpose of operating as a common carrier any railroad or street railroad, but upon which the commercial operation of trains or cars has not begun.

Ordered, That this order take effect immediately and continue in force until the expiration of the fiscal year ending June 30, 1910.

Ordered, That the Secretary of this Commission serve upon each of the said corporations on or before June 30, 1909, in the manner prescribed by law a certified copy of this order and two copies of the form of annual report hereby prescribed and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extensions of the time within which reports are returnable except for cause duly shown, and it is further

Ordered, That in pursuance of section 23 of the Public Service Commissions Law every person and corporation so served notify the Commission forthwith in writing of the receipt of the said certified copy of this order and the forms of annual report aforesaid, and that in the case of a corporation such notification be signed and acknowledged by a person or officer duly authorized by the corporation to admit such service.

Street and Electric Railroad Corporations.— Uniform system of
Accounts.

Case No. 641

Extension Order

Order modifying Final Order

Extension Orders

Resolution denying extension

The Commission, in 1908, issued an order directing every street and electric railroad corporation within its jurisdiction to keep on its books statistical accounts as prescribed in said order. The Brooklyn Rapid Transit Company, on behalf of its subsidiary companies, made application for an extension of time to comply with the terms of said order. The Commission, on January 9, 1909, granted an extension of such time to April 1, 1909 (see blank form of extension order, page 8).

<p>In the Matter of a Uniform System of Accounts for STREET AND ELECTRIC RAILWAYS.</p>	<p>Case No. 641, Order Modifying Final Order June 18, 1909.</p>
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An order having been adopted herein by the Public Service Commission for the First District on December 8, 1908, prescribing a uniform system of accounts to be kept by street and electric railroad corporations subject to the jurisdiction of the Commission, it is hereby

Ordered, That the said system of accounts be and the same is hereby amended as follows:

Page 9. Amend the definition of "Fixed Capital, December 31, 1908," to read as follows:

(S. 100) Fixed Capital, December 31, 1908.

Charge to this account all the Fixed Capital of the accounting person or corporation devoted to street railway operations as of December 31, 1908. When any capital included in such account is retired from service, the amount at which it is charged shall be credited to this account; *the amount of depreciation or other amortization thereon applicable to the period subsequent to June 30, 1909, shall be charged to the account (No. 374) Accrued Amortization of Capital, proper account being taken of salvage, and the remainder of the amount originally charged to Capital shall be concurrently charged to the Corporate Surplus or Deficit Account, unless there was carried on the books at that date a reserve to cover retirement of capital from service; in which case such remainder of the charge shall be made to that account. If the original capital cost is not disclosed on the books or records of the accounting person or corporation and is not obtainable by such person or corporation, it shall be estimated and such estimated amount shall be treated as above directed, the fact of estimation being stated in the entry.*

NOTE.—Corporations will be required to carry as sub-accounts of the account "Fixed Capital, December 31, 1908," the several accounts on their books on that date which are combined to make up the said account, and to furnish information concerning such sub-accounts in their annual reports.

Page 54. Add to the definition of the account (730) "Depreciation of Way and Structures" the following clause:
except as provided in account (No. 8. 100) "Fixed Capital, December 31, 1908."

Page 60. Amend the sentence beginning on the third line to read as follows:

The net amount charged (or collected) to this account for any month, and concurrently credited (or charged) to the reserve account "Accrued Amortization of Capital" must be sufficient, *except as provided in the account (No. 8. 100) "Fixed Capital, December 31, 1908,"* to provide in that account, in respect of the several items of equipment by the time such items go out of service, a reserve equal to the original cost thereof, less salvage.

Page 65. Amend the note under the account (802b) "Passenger Conductors" to read as follows:

NOTE.—This account is intended for the use of surface lines, which must keep sub-accounts for horse car conductors and electric car conductors. The wages of conductors on elevated and underground lines should be charged to separate accounts, which upon the filing of proper notice with the Public Service Commission, may include guards or brakemen in passenger service.

The Commission, on July 2d, issued an order extending the time of the following companies, to comply with the final order, to July 31, 1909 (see blank form of extension order, page 8):

Hudson and Manhattan Railroad Company;
 Brooklyn City and Newtown Railroad Company;
 Richmond Light and Railroad Company;
 Southfield Beach Railroad Company;
 Coney Island and Brooklyn Railroad Company;
 Staten Island Midland Railway Company;
 DeKalb Avenue and North Beach Railroad Company.

Time of the following companies extended on August 6, 1909, to August 31, 1909.

Brooklyn City and Newtown Railroad Company;
 Coney Island and Brooklyn Railroad Company;
 DeKalb Avenue and North Beach Railroad Company;
 Hudson and Manhattan Railroad Company;
 Southfield Beach Railroad Company;
 Staten Island Midland Railway Company;
 Richmond Light and Railroad Company.

Time of the following companies extended, on August 31, 1909, to September 10, 1909.

Brooklyn City and Newtown Railroad Company;
 Coney Island and Brooklyn Railroad Company;
 DeKalb Avenue and North Beach Railroad Company.

Time of the following company extended on November 5, 1909, to January 1, 1910.

Metropolitan Street Railway Company.

CASE NO. 641, RESOLUTION DENYING EXTENSION TO CONEY ISLAND AND BROOKLYN RAILROAD COMPANY.

(November 23, 1909.)

The Coney Island and Brooklyn Railroad Company having made application in writing, verified the 10th day of September, 1909, for an extension from September 10, 1909, of its time within which to file rules of amortization known as, Rule of the Coney Island and Brooklyn Railroad Company concerning Depreciation of Way and Structures, Rule of the Coney Island and Brooklyn Railroad Company concerning Depreciation of Equipment and Rule of Amortization of intangible capital not assignable to Maintenance of Way and Structures or to Maintenance of Equipment, as required by the Final Order herein, adopted on December 8, 1908, and sufficient grounds not being made to appear for said application, it is

Resolved, That the said application of the Coney Island and Brooklyn Railroad Company for an extension of its time within which to file the aforesaid rules be and the same hereby is denied.

Railroad and Street Railroad Corporations.— Filing of copies of documents.

CASE NO. 1198, ORDER FOR FILING DOCUMENTS, ETC.

(December 24, 1909.)

Resolved: That the following be adopted and that it be served on each railroad corporation and street railroad corporation owning, leasing, operating or controlling a railroad or street railroad lying wholly or partly within the First District:

You are hereby ordered and required: To file with this Commission within thirty days after service of this order, exclusive of the day of service, sworn copies of each and every of the following books, records, contracts, documents and papers belonging to you or in your possession for yourself and for each and every company whose lines are owned, leased, operated or controlled by you, indorsing upon each sworn copy a statement of the public office, if any, in which the original is filed or recorded and the date of filing or recording, and if recorded the book and page where recorded; and also hereafter without further or other order to file with the Commission within five days after their execution or adoption sworn copies of any further books, records, contracts, documents or papers affecting the subject matter of this order.

Where any book, contract, record, document or paper has been filed by you before service of this order, the filing of a duplicate is not required, but it should be referred to as having been already filed:

- (1) Certificates of incorporation, including those of predecessor companies.
- (1a) By-laws now in force.
- (2) Supplemental or amended certificates of incorporation, including those of predecessor companies.
- (3) Statements of proposed extensions of route filed by present or predecessor companies pursuant to section 90 of the Railroad Law.
- (4) Transcript of corporate records relative to increases or decreases of capital stock of present and predecessor companies and authorization of mortgages, bond issues and other corporate securities proposed, outstanding or uncanceled.
- (5) Consolidation and merger agreements, including those of all predecessor companies.

- (6) Consents of local authorities constituting franchise rights, including those granted to predecessor companies.
- (6a) Consents of local authorities relative to change in motive power, including those granted to predecessor companies.
- (6b) Agreements with the Dock Department, Bridge Commissioner or other municipal authorities.
- (6c) Agreements with and permits from the Federal authorities.
- (7) Affidavits that necessary property owners' consents have been secured in each instance where necessary, stating dates and places of filing, including those of predecessor companies; consents granted by local authorities as property owners should be furnished in full.
- (8) Orders of the Board of Railroad Commissioners granting or denying certificates of public convenience and necessity to present or predecessor companies; also all judicial decisions relative to any such order or the application therefor. In lieu of furnishing such orders and decisions you may at your option furnish exact references to all such orders and decisions, giving the dates thereof and also the dates of all applications for such orders.
- (9) Applications to and orders issued by the Board of Railroad Commissioners relative to approval of or change in motive power; or in lieu thereof a reference to the dates of such applications and orders.
- (10) Applications to and orders issued by the Board of Railroad Commissioners relative to changes in capital stock or bond issues; or in lieu thereof a reference to the dates of such applications and orders.
- (11) Certificates of abandonment of route.
- (12) Leases affecting franchises, road or equipment, including specifically all leases of predecessor companies under chapter 302 of the Laws of 1885, chapter 254 of the Laws of 1867, chapter 503 of the Laws of 1879 and section 79 of the General Railroad Law.
- (13) Deeds, mortgages and other documents in the chain of your title not including under this requirement documents relating exclusively to specific parcels of real estate.
- (14) All deeds, leases or other instruments by which present and predecessor companies acquired title to or interest in any piece or parcel of realty within the First District now owned in fee or otherwise owned, held or controlled by you, whether forming a part of your right of way or otherwise. In lieu of complying with this requirement you may at your option furnish original maps or blueprints showing the location and boundaries of each piece or parcel of land aforesaid and indicating for each such piece or parcel the names of the parties to all deeds, subsisting leases or other conveyances to present or predecessor companies, the nature of the instrument and the interest conveyed thereby, its date and if recorded the liber and page where recorded; but full copies must be furnished of instruments not recorded.
- (15) All traffic and trackage agreements including your agreements with express companies, companies engaged in the removal of ashes or other refuse or other companies operating upon any portion of your lines.
- (16) All agreements with terminal companies and freight warehouse companies and with other railroad companies.
- (17) All court decisions in actions in which you or predecessor companies were parties affecting your intercorporate relations or your public rights, duties and obligations, or in lieu thereof exact references to all such decisions.

Corporations operating steam railroads not wholly within the First District are exempted from compliance with this order except as to books, records, contracts, documents and papers relating to or affecting their rights, franchises, property, obligations or passenger, freight or express traffic within the First District.

Corporations operating street railroads partly outside of the First District are exempted from compliance with this order as to all books, records, contracts, documents and papers relating exclusively to their rights, franchises, property, obligations and passenger, freight or express traffic wholly outside of the First District.

It is further ordered, That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

It is further ordered, That this order shall supersede Order No. 8, adopted August 2, 1907.

Stage Coach Corporations.— List of accounts and copies of blank forms used, required to be filed, preparatory to the establishment of a uniform system of accounts.

In the Matter
of a
Uniform System of Accounts for STAGE COACH
CORPORATIONS.

Case No. 1116,
Filing Order.
June 18, 1909.

Ordered, That preliminary to the preparation of a uniform system of accounts for stage coach corporations, every such corporation shall file with the Commission within ten days of the service of this order a complete list or schedule of all accounts kept by such corporation, together with a copy of every blank form used by such corporation in the transaction of its business.

Owners and Operators of Stage Routes.— Filing of tariff schedules.

In the Matter
of the
Filing with the Public Service Commission for the
First District of TARIFF SCHEDULES BY
STREET RAILROAD CORPORATIONS in pur-
suance of Section 28 of the Public Service Com-
missions Law.

Case No. 708.
Order Extending Provi-
sions to Owners and
Operators of Stage
Routes.
August 20, 1909.

It is hereby ordered, That the Regulations contained in Tariff Circular No. 1 adopted by this Commission by Order No. 708, made on August 28, 1908, prescribing, from and after September 1, 1908, the form, and governing the constructing and filing of schedules of fares for passenger service of street railroad corporations subject to the jurisdiction of this Commission, be extended, and shall apply, to the persons and corporations mentioned in section 24 of the Transportation Corporations Law, being chapter 63 of the Consoli-

dated Laws, so far as said Tariff Circular No. 1 can be applicable to such persons and corporations.

Further ordered, That, on or before September 15, 1909, such persons and corporations mentioned in section 24 of the Transportation Corporations Law file, in conformity with said circular, so far as the same can be applicable to such persons and corporations, schedules, effective upon filing, showing fares, transfers and all regulations relating thereto actually in effect for thirty days prior to September 15, 1909, changes therefrom to be filed in accordance with regulations with full notice unless otherwise ordered.

Further ordered, That the term "street railroad" or "street railroads," as used in said Tariff Circular No. 1, shall mean any street railroad, line or route of a street railroad corporation, common carrier, or a person or corporation mentioned in section 24 of the Transportation Corporations Law.

Interborough Rapid Transit Company.— Number of tickets sold, and car miles operated.

Case No. 1033

Filing Order

Orders amending filing order

In the Matter
of the
Filing by the INTERBOROUGH RAPID TRANSIT
COMPANY of certain facts relative to the opera-
tion of the Subway Division and the Second,
Third, Sixth and Ninth Avenue Elevated Lines.

Case No. 1033,
Filing Order.
February 19, 1909.

Resolved, That the resolution of the Commission adopted December 29, 1908, requiring that the Interborough Rapid Transit Company give specific answer to certain questions upon which the Commission needed information, contained in said resolution, be and said resolution is hereby resettled and modified so that the same shall read as follows:

Resolved, That the Interborough Rapid Transit Company be and it hereby is required to make specific answer to the following questions upon which the Commission now needs information, in the manner following, to wit:

(1) To file on or before January 25, 1909, and on or before the 25th of each succeeding month, a sworn statement of (a) the number of tickets sold by the said company during the preceding calendar month on each of the northbound and southbound platforms of the Subway Division and the Second, Third, Sixth and Ninth Avenue Elevated lines, and (b) the number of miles run by passenger cars of said company on each of the said routes during the same period.

(2) To file within forty-eight hours after the close of each day for a period of six months from January 1, 1909, a detailed statement of traffic showing as nearly as may be the number of tickets sold and the number of car miles run on each of the said routes. It is not required that such statement shall contain corrections or adjustments beyond those contained in the usual daily statement of traffic prepared for the use of the management of the said road.

(3) To file monthly for a period of six months from January 1, 1909, on or before the 25th day of each month, a sworn statement showing for the preceding calendar month (a) the gross revenues from operation, (b) the expenses of operation, and (c) the income from other sources than operation,

of the Interborough Rapid Transit Company and of the elevated and subway divisions separately.

Resolved further, That reports already due under the foregoing resolution as so resettled and modified and not yet filed be filed within ten days from and after the service upon the said company of this resolution.

CASE NO. 1033, ORDER AMENDING FILING ORDER.

(July 2, 1909.)

Resolved, That the resolution of the Commission adopted December 29, 1908, requiring that the Interborough Rapid Transit Company give specific answer to certain questions upon which the Commission needed information, contained in said resolution, be and said resolution is hereby resettled and modified so that the same shall read as follows:

Resolved, That the Interborough Rapid Transit Company be and it hereby is required to make specific answer to the following questions upon which the Commission now needs information, in the manner following, to wit:

(1) To file within seventy-two hours after the close of each day a daily statement of traffic showing as nearly as may be the number of tickets sold and the number of car miles run on each of the said routes. It is not required that such statement shall contain corrections or adjustments beyond those contained in the usual daily statement of traffic prepared for the use of the management of the said road.

(2) To file within 25 days after the close of each calendar month a sworn statement of the number of tickets sold by the said company during the month on each of the northbound and southbound platforms of the Subway Division and the Second, Third, Sixth and Ninth Avenue Elevated lines.

(3) To file within six weeks after the close of each calendar month beginning with July, 1909, separate reports of operations on the Subway and Elevated Divisions of said company in the form known as "Monthly Report of Street Railway Operations" (Form 2164).

Resolved further, That reports already due under the foregoing resolution as so resettled and modified and not yet filed be filed within ten days from and after the service upon the said company of this resolution.

CASE NO. 1033, ORDER AMENDING FILING ORDER.

(October 13, 1909.)

Resolved, That the resolution of the Commission adopted December 29, 1908, requiring that the Interborough Rapid Transit Company give specific answer to certain questions upon which the Commission needed information, contained in said resolution, be and said resolution is hereby resettled and modified so that the same shall read as follows:

Resolved, That the Interborough Rapid Transit Company be and it hereby is required to make specific answer to the following questions upon which the Commission now needs information, in the manner following, to wit:

(1) To file within seventy-two hours after the close of each day a daily statement of traffic showing as nearly as may be the number of tickets sold and the number of car miles run on each of the said routes. It is not required that such statement shall contain corrections or adjustments beyond these contained in the usual daily statement of traffic prepared for the use of the management of the said road.

(2) To file within 25 days after the close of each calendar month a sworn statement of the number of tickets sold by the said company during the month on each of the northbound and southbound platforms of the Subway Division and the Second, Third, Sixth and Ninth Avenue Elevated lines.

(3) To file within six weeks after the close of each calendar month beginning with July, 1909, separate reports of operations on the Subway and Elevated Divisions of said company in the form known as "Monthly Report of Street Railway Operations" (Form 2164).

Resolved further, That reports already due under the foregoing resolution as so resettled and modified and not yet filed be filed within ten days from and after the service upon the said company of this resolution.

Long Island Railroad Company.—Filing of documents.Case No. 8
Hearing Order

The Commission, in 1907, issued an order directing the company to file certain documents with the Commission and on October 13, 1909, issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on motion of the Commission on the question of Compliance by The Long Island Railroad Company with the provisions of Order No. 8, adopted August 2, 1907, requiring the filing of documents with the Commission.</p>	<p style="text-align: right;">Case No. 8. Hearing Order as to Compliance with Order No. 8. October 13, 1909.</p>
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It is hereby ordered, That a hearing be had on October 25, 1909, at 2:30 o'clock in the afternoon or at any time or times to which the same may be adjourned, at the rooms of the Commission, No. 154 Nassau Street, in the Borough of Manhattan, City and State of New York, on the question of the compliance by the Long Island Railroad Company with the terms of Order No. 8 adopted by this Commission on August 2, 1907, requiring the filing of documents with the Commission. It is

Further ordered, That said company be given at least ten days' notice of said hearing by service upon said company either personally or by mail, of a certified copy of this order.

A hearing was held on October 25, 1909.

Metropolitan Street Railway Company.—Information required to be filed regarding number of, and types of cars purchased and in use.

Case No. 1041, Filing Order.

(January 12, 1909.)

Resolved, That Adrian H. Joline and Douglas Robinson, Receivers of the Metropolitan Street Railway Company be required to file by January 25th, 1909, the following information:

(a) For each line or route specified in their tariff schedules, the number of cars of each type, classified according to seating capacity, used thereon or assigned thereto, stating which, upon the following days:

July 1, 1906,	October 1, 1906,	Jan. 1, 1907,	Apr. 1, 1907,
" 1907,	" 1907,	" 1908,	" 1908,
" 1908,	" 1908,	" 1909.	

(b) The number of new cars of each type purchased for use upon each of the lines given under (a) above between July 1, 1906, and January 1, 1909, with dates when they were put into operation.

(c) The number of cars of each type withdrawn from use upon each of the lines given under (a) above, between July 1, 1906, and January 1, 1909, with dates when they were withdrawn.

(d) The number of cars of each type which have been ordered but not yet delivered with approximate date when they will be delivered.

New York and Portchester Railroad Company; New York, Westchester and Boston Railroad Company.— Requiring certain information regarding their financial and corporate history to be filed.

Case No. 1153
Filing Order
Extension Order

In the Matter
of the
Annual Report to be filed by RAILROAD CORPORATIONS operating a line partly within the Second District and partly within the First District.

Case No. 1153,
Filing Order.
August 20, 1909.

Resolved, That the New York and Portchester Railroad Company and the New York, Westchester and Boston Railroad Company be required to file with this Commission, within thirty days, such information concerning their financial and corporate history during the fiscal year ending June 30, 1909, as is called for in Annual Report Form C 1908-9.

The companies having made application for an extension of time to file the information required, the Commission, on September 17th, extended the time to October 31, 1909 (see blank form of extension order, page 8).

Second Avenue Railroad Company.— Statements relative to operation of cars required to be filed.

In the Matter
of the
Filing by the SECOND AVENUE RAILROAD COMPANY, and by GEORGE W. LINCH, its Receiver, of certain statements relative to the operation of cars on the Second Avenue Railroad Company's Lines.

Case No. 1056,
Filing Order.
January 29, 1909.

Resolved, That the Second Avenue Railroad Company and George W. Linch, its Receiver, be and they hereby are required to furnish and forward daily to the Public Service Commission for the First District, from February 8,

1909, to December 31, 1909, a transcript of the daily entries in the so-called run-in book or books showing, among other things, which of the cars owned or operated by the Second Avenue Railroad Company, or by its Receiver, are taken out of service because they are in need of repairs or alterations or improvements.

Brooklyn Union Elevated Railroad Company; Sea Beach Railway Company; South Brooklyn Railway Company and Nassau Electric Railroad Company.—Record of passengers.

In the Matter
of
Record of Passengers to be kept by certain ELEC-
TRIC RAILROAD CORPORATIONS.

Case No. 1152,
Filing Order.
August 20, 1909.

Resolved, That, in lieu of a record of revenue and transfer passengers by lines, the Brooklyn Union Elevated Railroad Company, Sea Beach Railway Company, South Brooklyn Railway Company, and Nassau Electric Railroad Company be required to keep for elevated operation (the operation of elevated cars) a record of similar information for each station (separating up and down stations wherever the stations are separate) in detail, as follows:

- (1) Number of tickets sold.
- (2) Number of persons registered by pass-meter.
- (3) Items to be deducted from the pass-meter figure, viz., (a) redeemed tickets, that is, tickets previously purchased (and therefore contained in the number of tickets sold) which are presented by passengers entering a station through a pass-meter; (b) free tickets similarly received; (c) transfers similarly received; also (d) anything else accepted in lieu of cash on entering a station through a pass-meter. Of each of these items a separate record is to be kept.
- (4) The net number of revenue passengers recorded by the pass-meter, a figure obtained by deducting the sum of (a), (b), (c) and (d) above, from (2).
- (5) The number of sales of passenger trips, to be obtained by adding to the number of tickets sold (1), the net pass-meter figure (4).
- (6) Transfers collected other than those included in the above pass-meter registration. The points at which transfer from surface cars is effected without the use of slips are to be indicated.

In case of fares, tickets, and transfers collected on trains, these items are to be recorded by lines and accompanied by a description of the points on each line between which passengers are allowed to enter elevated cars otherwise than through stations.

This mode of recording the above facts is required to be put in operation as soon as may be, and not later than September 1, 1909.

These records are to be preserved in accessible form by days.

Common Carriers, Railroad and Street Railroad Corporations.—
Notice of accidents.

Case No. 1142

Filing Order

Suspension Order

In the Matter
of the

Notice of Accidents to be given by every COMMON CARRIER, RAILROAD CORPORATION AND STREET RAILROAD CORPORATION subject to the jurisdiction of the Public Service Commission of the State of New York for the First District, and the Investigation of Accidents.

Case No. 1142,
Filing Order.
August 27, 1909.

Ordered, That every railroad corporation, street railroad corporation and other common carrier over which this Commission has jurisdiction, is hereby required to give notice to this Commission of every accident or delay to traffic happening upon any line or route, owned, operated or leased by it, in the following manner:

- I. Preliminary notice of the place and general nature of the accident or delay shall be given by telephone immediately after its happening, or, if happening after 11:30 o'clock P. M., then at 8:00 o'clock A. M., the following day.
- II. Such notice shall be followed by a written report upon each accident or delay coming within any one of the following four classes:
 - (1) Accident resulting in death or serious injury to persons;
 - (2) Collision resulting in serious damage to equipment or to vehicles;
 - (3) Derailment of elevated or subway trains, or of any railroad train, car or engine;
 - (4) Any interference with, or stoppage of, traffic upon any track or route, resulting in a delay of fifteen minutes or over, but without accident in conjunction therewith which would fall in one of the three prior classes.

Any accident coming within classes (1), (2) or (3) shall be reported in the form of a written statement on Form T-20, attached to, and hereby made a part of this order.

Any delay coming within class (4) shall be reported as a written statement on Form T-21, attached to, and hereby made a part of this order.

Such written reports must be delivered to the Commission as soon as possible, and within not more than three days after the happening of the accident or delay.
- III. A monthly statement shall be made to the Commission on Form T-22, attached to and hereby made a part of this order, by every common carrier, of all accidents and delays occurring upon any line or route owned, operated, controlled or leased by any such common carrier. This statement shall consist of a classification, according to their nature, of all accidents and delays, including those reported by telephone, and shall be forwarded to the Public

Service Commission on or before the tenth day of the following month. This statement is to be made monthly, even if no accidents or delays have occurred, in which case a proper entry should be written across the face of the blank form.

IV. Inspectors of this Commission, with cards of identification signed by the Secretary of the Commission, shall be permitted at any time to enter upon the premises of any such common carrier for the purpose of examining any car or equipment.

V. The particulars of any accident, derailment, or delay to traffic shall, upon request, be furnished immediately by any such common carrier, although not considered "serious," and therefore not reported by the company.

This order is to take effect forthwith, and shall continue in effect until the further Order of the Commission.

CASE No. 1142, SUSPENSION ORDER.

(September 24, 1909.)

Application in writing, dated September 22, 1909, having been made by the Richmond Light and Railroad Company for a suspension of the Filing Order duly adopted in the above entitled matter on August 27, 1909, in respect to the part thereof hereinafter mentioned, and reasonable ground appearing therefor, it is

Ordered, That, as to the Richmond Light and Railroad Company, the requirements of subdivision (4) of paragraph II of the Filing Order herein, duly adopted on August 27, 1909, which subdivision relates to interference with, or stoppage of, traffic, be, and the same hereby is, suspended during the dates of the ensuing Hudson-Fulton celebration.

Fifth Avenue Coach Company.— Financial statement to be filed with Commission.

In the Matter
of a
Financial Statement to be filed by the FIFTH
AVENUE COACH COMPANY.

Case No. 1157,
Filing Order.
August 27, 1909.

Ordered, That the Fifth Avenue Coach Company shall file with this Commission within thirty days of the service of this order, a financial statement covering its operations for the year ending June 30, 1909. Such statement shall be verified by the oath of the president of the company and shall show in detail the following matters:

The amount of capital stock authorized and amount issued to June 30, 1909, the amounts paid therefor and the manner of payment for the same; the dividends declared or paid during the year; the surplus, if any; the number of stockholders, and the number of shares severally held by or on behalf of other corporations.

The funded debt, if any, with description of same, the amount of floating indebtedness, and the interest accruing on funded debt and upon floating debt during the year.

A balance sheet statement showing the book value at the beginning and at the close of the year of at least the following items: Omnibuses; gasoline cars; tires; fare registers; shop tools, machinery and fixtures; contracts and rights; other intangible capital; materials and supplies; cash; accounts receivable; bills receivable; other current assets; prepayments and other deferred debit items; total assets and debit balances; the current and other liabilities, the several reserves and the total liabilities and credit balances.

An Income Statement showing gross earnings for the year from stage lines, livery calls, advertising, miscellaneous, and from all sources; operating expenses in the same detail as in the company's Form 27 (new); taxes accrued; non-operating income; deductions from income; net corporate income or loss.

The number of passengers carried over each stage route and over all routes during the year, the amount of passenger fares, the number of buses run, the number of round trips, the number of bus miles and bus hours over each stage route and over all stage routes; the number of bus calls, of buses used and miles run in such service, of bus hours and total earnings from bus calls during the year.

The total number of employees at the beginning and end of the year and the total amount paid to employees, not general officers, in salaries or wages during the year; the number at the beginning and end of the year of superintendents, clerks, starters, receivers, inspectors, oilers, washers, shifters, other garage employees, drivers, conductors, and the rate of wages paid to drivers and conductors.

The number of accidents during the year and the causes thereof; the number of employees, of passengers and of other persons killed and the number of those several classes injured (incapacitated for three or more days within the ten days following the accident).

Gas and Electrical Corporations.— Form of Annual Report.

Case No. 728

Extension Order

The Commission, on December 22, 1908, issued an order approving and prescribing a form of report to be filed by all gas and electrical corporations subject to its jurisdiction for the six months ended December 31, 1907, and the Richmond Light and Railroad Company having made an application in writing for an extension of the time therein prescribed, the Commission, on August 6, 1909, issued an order (see blank form of extension order, page 8) extending the time within which the said company should file its report to and including August 25, 1909.

Gas and Electric Corporations.—Form of annual report.

Case No. 1080

Order prescribing form

Order making certain exceptions

Extension Orders

In the Matter
of the
Form of Report to be Filed by GAS AND ELEC-
TRIC CORPORATIONS Subject to the Jurisdic-
tion of the Public Service Commission for the
First District in Accordance with Section 66
of the Public Service Commissions Law.

Case No. 1080,
Order Prescribing Form
of Annual Report
and Requiring Re-
ports in Accordance
Herewith.
February 19, 1909.

The Public Service Commission for the First District being authorized and required by section 66 of the Public Service Commissions Law to prescribe the form of report required under said Act to be made by gas and electrical corporations subject to its jurisdiction;

It is hereby ordered, That the form for reports of all gas and electrical corporations subject to the jurisdiction of the Commission, as the terms are defined in section 2 of the Public Service Commissions Law, for the year ended December 31, 1908, as the said form has been prepared by the Chief Statistician of the Commission, be and the same hereby is approved and prescribed by the Public Service Commission for the First District; and

It is further ordered, That every such corporation shall on or before April 1, 1909, make and file with the Commission a report in said form for the year ended December 31, 1908; and

It is further ordered, That the Secretary of this Commission serve upon each of the said corporations on or before March 1, 1909, in the manner prescribed by law a certified copy of this order, and two copies of the form hereby prescribed and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extensions of the time within which periodical reports are returnable except for cause duly shown.

CASE NO. 1080, ORDER MAKING CERTAIN EXCEPTIONS.

(February 19, 1909.)

Ordered, That the data as to average number of persons employed, service rendered during the year, and average rate of compensation in the Annual Report Form of Gas and Electrical Corporations (columns *f*, *h*, *i* and *k*, page 44) will not be required for the year 1908 of corporations that have not kept their accounts in the form assumed by the inquiries; and that the data as to greatest and least number of employees, number of appointments, and total compensation during the year (columns *d*, *e*, *g* and *j*, page 44) will not be required for the year 1908 as to such of the individual occupations specified in lines 7-13 and 16-35, as have not been separately classified in the accounts of the respondent corporation.

The companies hereinbelow named having made applications in writing for extensions of the time within which to file their annual reports in compliance with the above orders, orders extending the time were issued in substantially the following form:

(Blank Form)

<p>In the Matter of the</p>	<p>Case No. 1080, Extension Order.</p>
<p>Form of report to be filed by GAS AND ELECTRIC CORPORATIONS subject to the jurisdiction of the Public Service Commission for the First District in accordance with Section 66 of the Public Service Commissions Law.</p>	

An order of the Commission having been made herein on or about the 19th day of February, 1909, prescribing the form of report to be filed by all gas and electric corporations within the jurisdiction of the Commission for the year ending December 31, 1908, and application in writing having been received from _____ requesting an extension of the time prescribed.

Now, on motion made and duly seconded, it is
Ordered, That the time within which said _____ shall file the report for the year ending December 31, 1908, and the same hereby is extended to and including _____, 1909.

Time extended to and including April 10, 1909:
 Astoria Light, Heat and Power Company.
 East River Gas Company.
 New Amsterdam Gas Company.
 New York Mutual Gas Light Company.
 Northern Union Gas Company.
 Standard Gas Light Company of the City of New York.

Time extended to and including April 12, 1909:
 Ball Electrical Illuminating Company.
 Brush Electric Illuminating Company.
 United Electric Light and Power Company.

Time extended to and including April 15, 1909:
 Brooklyn Union Gas Company.
 Central Union Gas Company.
 Consolidated Gas Company of New York.
 Flatbush Gas Company.
 Jamaica Gas Light Company.
 Newtown Gas Company.
 Richmond Hill and Queens County Gas Light Company.
 Woodhaven Gas Light Company.

Time extended to and including April 20, 1909:
New York and Richmond Gas Company.

Time extended to and including May 20, 1909:
Long Acre Electric Light and Power Company.

Time extended to and including July 1, 1909:
Equity Gas Company.

Time extended to and including August 25, 1909:
Richmond Light and Railroad Company.

Electrical Corporations.—Uniform system of accounts.

Case No. 577

Extension Orders

The Commission, on December 8, 1908, issued an order directing every electrical corporation within its jurisdiction to keep upon its books the accounts prescribed in the schedule annexed to said order. The Commission, on January 8, 1909, extended the time of all the companies for compliance with said order to February 1, 1909 (see blank form of extension order, page 8).

The New York Edison Company and the Edison Electric Illuminating Company of Brooklyn, on January 8 and February 1, 1909, respectively, applied for approval of a construction account entitled "Work in Progress," pursuant to the provisions of the Final Order in Case No. 577. The Commission on March 23d, adopted the following resolution:

Resolved, That the applications made by the New York Edison Company and by the Edison Electric Illuminating Company of Brooklyn under the Final Order in Case No. 577, to maintain as a special suspense account an account entitled "Work in Progress," be granted subject to the condition that charges thereto shall not be carried in suspense beyond the end of the fiscal year next succeeding that in which such charges are made.

The Commission, on July 2d, extended the time of the Richmond Light and Railroad Company within which to comply with the terms of the final order to July 31st, and on August 6th, extended the time of the company to August 25, 1909 (see blank form of extension order, page 8).

Gas Corporations.— Uniform system of accounts.

Case No. 578

Extension Orders

Filing Order

Extension Order

The Commission, on December 8, 1908, issued an order directing every gas corporation within its jurisdiction to keep upon its books the accounts prescribed in the schedules attached to said order and should any company desire to keep other or different accounts to file an explanatory statement with the Commission ten days before instituting the same.

The companies hereinbelow named having made applications in writing for extensions of the time within which to file certain statements prescribed in said order, orders extending the time of the said companies were issued in substantially the following form:

(Blank Form)

In the Matter
of the
Uniform System of Accounts for GAS CORPORA-
TIONS within the Jurisdiction of the Commission.

Case No. 578.
Extension Order.

An order in Case No. 578 having been made herein on or about the 8th day of December, 1908, ordering and directing every gas corporation within the jurisdiction of the Public Service Commission for the First District to keep upon its books the accounts prescribed or defined in the schedules thereto annexed, and application having been made by several of the said gas corporations for an extension of time for filing with the Commission certain statements therein required.

Now, on motion made and duly seconded, it is

Ordered, That the time within which the following gas corporations shall file with the Commission be and the same hereby is extended to and including

The Commission, on January 8, 1909, extended the time of every gas corporation subject to its jurisdiction for filing the information required by said order to and including February 1, 1909.

Time extended to March 1 1909:

Kings County Lighting Company.
Richmond Hill and Queens County Gas Light Company.
The Brooklyn Union Gas Company.
The Flatbush Gas Company.
The Jamaica Gas Light Company.
The Newtown Gas Company
The Woodhaven Gas Light Company.

The time of the said companies was subsequently extended to and including April 1, 1909.

Time extended to and including March 1, 1909:

Central Union Gas Company.
Consolidated Gas Company of New York.
New Amsterdam Gas Company.
New York Mutual Gas Light Company.
Northern Union Gas Company.
Standard Gas Light Company of the City of New York.

Time extended to and including April 5, 1909:

New York and Richmond Gas Company.

Time extended to and including April 15, 1909:

Brooklyn Union Gas Company.
Richmond Hill and Queens County Gas Light Company.
The Flatbush Gas Company.
The Jamaica Gas Light Company.
The Newtown Gas Company.
Woodhaven Gas Light Company.

Time extended to and including July 1, 1909:

Equity Gas Company.

In the Matter
of
A Uniform System of Accounts for GAS CORPORATIONS, as Prescribed by the Public Service Commission for the First District, State of New York.

Case No. 578,
Filing Order.
Consolidated Gas
Company.
September 10, 1909.

Ordered, That the Consolidated Gas Company, within ten days from the service of this order, shall file with this Commission (1) a list or schedule of all the accounts which it kept on its books on July 1, 1909, with the exception of its accounts with individual consumers, and (2) a copy of each and every blank form which it uses in the conduct of its business.

The time within which to comply with the above order was extended to October 15, 1909.

Gas and Electric Corporations.— Notice of accidents.

In the Matter
of the
Notice to be Given by Every GAS CORPORATION
AND ELECTRIC CORPORATION of every Accident Happening upon its Premises or in Connection with the Manufacture and Distribution of Gas or Electricity.

Case No. 1165,
Filing Order.
October 5, 1909.

Ordered, That every gas corporation and electric corporation over which this Commission has jurisdiction is hereby required to give notice to this Commission of every accident happening upon its premises, or in connection with the manufacture and distribution of gas or electricity by it, which results

in loss of life or any injury to person, or any interference with the constant supply of gas or electricity to any consumer or consumers.

Such notice shall be given in the form of a written statement on the form attached to, and hereby made a part of this order, addressed and mailed to the Commission as soon as possible, and within five days, after the accident has occurred, and shall contain the following information:

1. Date and hour of accident.
2. Precise location of accident.
3. Name of person injured.
4. Address of person injured.
5. Age of person injured.
6. Sex of person injured.
7. Occupation of person injured.
8. Employee of company or not.
9. Regularly or temporarily employed.
10. Length of service with company.
11. Nature and extent of injury.
12. Where taken after injury.
13. Is death probable?
14. Probable duration of disability.
15. Name of attending physician.
16. Address of attending physician.
17. Names of witnesses of accident.
18. Addresses of witnesses of accident.
19. Was injured person obeying instructions at time of accident.
20. By whom were these instructions given?
21. Was accident due to negligence of injured person?
22. Give an exact and detailed description of the accident and its cause, supplementing by a sketch if same will make the explanation clearer.
23. Name of corporation.
24. Address of corporation.
25. Name of person reporting accident.
26. Date of report.

This order shall take effect on October 15, 1909, and shall continue in effect until October 15, 1912, unless earlier modified or abrogated.

Electrical Corporations.—Regulations prescribing the form and governing the construction and filing of schedules of rates and forms of contracts.

Case No. 823

Extension Orders
Orders amending Final Order
Rehearing Order
Hearing Order

The Commission, on December 18, 1908, issued an order prescribing the form and governing the filing of schedules of all rates and contracts in use by electrical corporations. The Commission, on January 5, 1909, extended the time of the companies within which to answer to said order to January 8th (see blank form of extension order, page 8) and on January 15th, extended the time of the companies for filing such schedules and rates and

forms of contract to February 1st. The Bronx Gas and Electric Company made application on February 1st for an extension of ten days to comply with the terms of the filing order, and the Commission, on February 2d, extended the time of such company to February 10th. The Long Acre Electric Light and Power Company made application on February 1st for an extension of time within which to comply with the filing order, and the Commission, on February 19th, extended the time of said company to March 5th. The New York and Queens Electric and Power Company made application to the Commission on April 21st for an amendment of a certain part of said filing order, and the Commission, on April 23d, directed (see blank form of hearing order, page 9) that a hearing be had on said application on April 29th. A hearing was held on said date. Thereafter, the Commission issued the following order:

In the Matter
of
An Investigation for the Purpose of Determining
whether, in order to insure uniform and adequate
dissemination of Information as to the Rates,
Contracts and Practices relating to Service Fur-
nished by ELECTRICAL CORPORATIONS, and
to prevent Discrimination and Unreasonable Pre-
ference by Electrical Corporations and also Devia-
tion from their Rates, an Order should be Issued
by the Commission with respect thereto.

Case No. 823.
Order Amending Final
Order.
May 7, 1909.

An order in Case No. 823 having been adopted by the Public Service Commission for the First District on December 18, 1908, governing the construction and filing of schedules of rates and forms of contracts of electrical corporations: Section 12 of which order is as follows:

"Sec. 12. Nothing herein shall be construed as applicable to schedules of rates and forms of contracts relating to service rendered to the City or State of New York, save that every electrical corporation shall file with the Commission a copy of every contract relating to such service made with the City or State of New York within ten days from date of contract."

And an application having been made to the Commission by the New York and Queens Electric Light and Power Company, April 21, 1909, that the said order, Section 12 thereof, be amended; and a hearing having been held before Commissioner Milo R. Maltbie, April 23, 1909; it is

Ordered, That Section 12 in said Case No. 823 be amended to read as follows:

"Sec. 12. Nothing herein shall be construed as applicable to schedules of rates and forms of contracts relating to service rendered to the City or State of New York, or to the United States government, save that every electrical corporation shall file with the Commission

a copy of every contract relating to such service made with the City or State of New York or with the United States government, within ten days from the receipt of the signed contract by the company, but in no event shall more than three months from the date of signing every such contract be allowed to elapse before a copy of every such contract shall be filed with the Commission."

And it is further

Ordered, That this order shall take effect on May 10, 1909, and shall continue in force until abrogated or modified by the Commission; and every electrical corporation within the jurisdiction of the Public Service Commission for the First District shall notify the Commission on or before May 15, 1909, whether the terms of this order are accepted and will be obeyed.

The New York Edison Company, the United Electric Light and Power Company and the Edison Electric Illuminating Company of Brooklyn made application, on January 30th, for a rehearing in this proceeding, and the Commission, on February 2d, directed (see blank form of hearing order, page 9) that a rehearing be had on February 5th, and extended the time of the said companies within which to comply with the terms of the filing order to February 10th. A rehearing was held on February 5th and the Commission thereafter extended the time of the said companies within which to comply with the filing order to February 20th (see blank form of extension order, page 8), and subsequently issued the following order:

CASE NO. 823, ORDER AMENDING ORDER OF DECEMBER 18, 1908.

(February 16, 1909.)

An order in the above-entitled matter having been made by the Commission December 18, 1908; and a rehearing having been held before the Commission February 5, 1909; and the Commission being of opinion, after the rehearing, that the said order should be amended, it is

Ordered: Section 1. Paragraph "(f)" of Section 4 of the above-mentioned order is hereby amended to read as follows:

(f) An exact copy of every form of contract and schedule of rates, each to be followed by an exact copy of every form of rider applicable thereto; but any corporation may insert at its discretion in any contract a standard clause relating to any minor service condition, provided such standard clause shall first have been submitted by the said corporation to and approved by the Commission.

§ 2. The time within which The New York Edison Company, The United Electric Light and Power Company and Edison Electric Illuminating Company of Brooklyn are required to comply with the terms of the order passed December 18, 1908, as hereby amended, is hereby extended to and including the 1st day of March, 1909.

The Westchester Lighting Company and the Flatbush Gas Company having made application to the Commission for an extension of time within which to comply with the terms of the

filing order, the Commission on February 5, 1909, extended the time of the companies within which to comply with said order to February 10th (see blank form of extension order, page 8).

Electrical Subway Corporations.—Form of annual report.

In the Matter
of the
Form of Report to be filed by ELECTRICAL SUB-
WAY CORPORATIONS subject to the Jurisdic-
tion of the Public Service Commission for the
First District in accordance with Section 66 of
the Public Service Commissions Law.

Case No. 1082,
Order Requiring An-
nual Report.
February 26, 1909.

The Public Service Commission for the First District, being authorized and required by Section 66 of the Public Service Commissions Law to prescribe the form of report required under said Act to be made by electrical subway corporations:

It is hereby

Ordered, That all electrical subway corporations subject to the jurisdiction of the Commission shall, on or before April 1, 1909, make and file with the Public Service Commission for the First District a report for the year ended December 31, 1908, in the form for gas and electrical corporations approved and prescribed by the Commission by two certain orders adopted by the Commission on or about February 19, 1909; and that every electrical subway corporation shall include in such report a statement of rents receivable from every corporation using its pipes, conduits, ducts, or other fixtures, and shall in other respects treat its operations as electric operations for the purpose of said report; and it is further

Ordered, That the Secretary of this Commission serve upon each of the said corporations on or before March 1, 1909, in the manner prescribed by law, a certified copy of this order and two copies of the form hereby prescribed; and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extension of the time within which periodical reports are returnable, except for cause duly shown.

Electrical Subway Corporations.—Semi-annual report.

In the Matter
of the
Form of Report to be filed by ELECTRICAL SUB-
WAY CORPORATIONS subject to the Jurisdic-
tion of the Public Service Commission for the
First District in accordance with Section 66 of
the Public Service Commissions Law.

Case No. 1082,
Order Requiring Semi-
Annual Report.
February 26, 1909.

The Public Service Commission for the First District, being authorized and required by section 66 of the Public Service Commissions Law to prescribe the form of report required under said Act to be made by electrical subway corporations:

It is hereby

Ordered, That all electrical subway corporations subject to the jurisdiction of the Commission shall, on or before April 1, 1909, make and file with the Public Service Commission for the First District a report for the six months ending December 31, 1907, in the form for gas and electrical corporations approved and prescribed by the Commission by Order No. 728 adopted by the Commission on or about September 22, 1908, as modified by Order No. 851 adopted by the Commission on or about November 20, 1908; and that every electrical subway corporation shall include in such report a statement of rents receivable from every corporation using its pipes, conduits, ducts or other fixtures, and shall in other respects treat its operations as electric operations for the purpose of said report; and it is further

Ordered, That the Secretary of this Commission serve upon each of the said corporations on or before March 1, 1909, in the manner prescribed by law, a certified copy of this order and two copies of the form hereby prescribed; and that in so serving upon each of said corporations a certified copy of this order, the Secretary shall notify each of such corporations of the policy of the Commission to make no extension of the time within which periodical reports are returnable, except for cause duly shown.

Subway Matters.

Interborough Rapid Transit Company.— Failure to stop subway trains at Mott Avenue.

This proceeding was begun in 1908 upon the complaint of Charles H. Baxter against the company alleging failure to stop subway trains at Mott Avenue, and hearings were held in that year. The Commission issued the following order:

<p>CHARLES H. BAXTER, Complainant, <i>against</i></p>	
<p>INTERBOROUGH RAPID TRANSIT COMPANY, Defendant.</p>	<p>Case No. 813, Discontinuance Order February 23, 1909</p>
<p>“ Failure of Subway trains to stop at Mott Avenue.”</p>	

An Order of the Commission, No. 813, having been made herein on or about the 30th day of October, 1908, directing a hearing on November 11, 1908, in the matter of the failure of Subway trains to stop at Mott Avenue, and it appearing from testimony taken at the said hearing and at subsequent hearings that the orders of the Company provide for the stopping of trains at the Mott Avenue Station and any failure to so stop trains is due to a violation of orders by the motorman, and the complainant having expressed himself as satisfied with this explanation of the Company,

Now, upon motion made and duly seconded, it is

Resolved, That the proceedings herein be, and the same hereby are, discontinued.

Interborough Rapid Transit Company.—Reservation of rear car on the subway express trains for the exclusive use of women and children.

Case No. 1051

Complaint Order

Hearing Order

Opinion of Commissioner Bassett

Opinion of Commissioner Eustis

Dismissal Order

This proceeding came up on the complaint of the Transportation Committee of the Woman's Municipal League against the company, complaining of crowded conditions during rush hours and requesting the reservation of the rear car on the subway express trains for the exclusive use of women and children. The Commission, on March 26, 1909, issued a complaint (see blank form of complaint order, page 7), and on April 12th, directed (see blank form of hearing order, page 8) that a hearing be had on April 23d. A hearing was held on said date.

Commissioner Eustis, who presided at the hearings herein, presented an opinion given below, which was not adopted. Commissioner Bassett then presented an opinion recommending a dismissal of the complaint, which was adopted by a majority of the Commissioners present. The opinions are:

OPINION.

COMMISSIONER BASSETT: —

Special cars for women will unbalance the loading of trains and discommode many of both sexes. Women will be compelled to stand in special cars much the same as now. Overcrowding would still take place in certain trains and hours. At other times the unnecessary cost of running an almost empty special car will be incurred. Undoubtedly women suffer inconveniences and sometimes indignities in the subway cars, but I do not believe that the operation of special cars will ameliorate these conditions — at least not sufficiently to warrant the new inconveniences and risks that would be created. Moreover, I do not believe that there is any preponderant demand among the women of the city for special cars.

It is to be further noted that after this complaint was filed the Hudson and Manhattan Railroad Company voluntarily set aside the rear car on its trains for the exclusive use of women. After this test, which was apparently

fairly and carefully conducted, it was abandoned on the ground that there did not appear to be a demand on the part of the women for such a car and the Commission has been so advised by that company.

Commissioner McCarroll concurred with Commissioner Bassett.

OPINION.

COMMISSIONER EUSTIS: —

This is a complaint against the Interborough Rapid Transit Company on account of the crowded condition in which women are compelled to travel during the rush-hours in the subway cars, and they demand that the rear car in each subway express train be reserved for women and children.

When the complaint was first received and sent to the company they replied informally by letter that they had given the matter considerable thought and attention in the past, realizing the unsatisfactory condition in which women were compelled to travel, and stating, if the Commission would so advise, they were willing to give the matter a trial. The Commission advised them by letter that they thought that they should have tried it before, and recommended that the company give the matter a trial. About the time this advice was sent to the Interborough Company, they interposed a formal answer, and on the hearing which has been had, while admitting the unpleasant crowded condition, they stated that they would not of their own volition make the experiment, as they considered it would not be a success, and what they meant by advice of the Commission was a regular order of the Commission, and that they would make the trial only on receipt of an order.

It was conceded at the hearing that for a certain period each day, morning and night, women are compelled to ride in the subway trains in close proximity to men, in fact they are often crowded in as closely as they can stand together. This condition of travel was very strongly objected to by the complainant, and a large number of letters have been received calling attention to the indecency of such mode of travel. On the other hand, almost an equal number of people have taken the opposite side, and stated that one car would not begin to be sufficient for the women, and that the men are a protection to the women in a crowded car, and that they prefer to ride in cars where men and women are together; that while there are rare occasions when some brute will take advantage of the situation to insult a lady, on the whole the gentlemen are the best protection that the ladies want against such conduct.

The company also took the position that in case of an accident in the rear car, there would undoubtedly be a panic and perhaps disastrous results which might not exist if some cool-headed men were in the car to take matters in hand.

The complainant produced the Manager for the Hudson-Manhattan Company, which company has been making this experiment since the first day of April, and he testified that it was working very successfully, and that they had been able to do it without increased expense, but it must be borne in mind that this company has no congestion like the subway.

I believe that over forty per cent of the passengers traveling upon the subway trains are women, so that, while there are a large number who do

not ask for a separate car and prefer the company of men, and it is well that it is so, for all could not possibly get into one car, these women could still ride in the other cars.

The defendant company's main objection to giving this matter a trial was that it would prove unsuccessful because of the difficulty in separating the men and women on the platform, and keeping up their running schedules. Mr. Hedley, the Vice-President and General Manager of the company, stated that they could give the matter a trial without any great inconvenience during the slack season of July and August, when they would be carrying about 200,000 less passengers a day than they are now carrying, and if it can be made a success at any time it would be then.

It appears to me that this question will never be satisfactorily settled without a trial. While I have doubts of its success when the rush of travel returns in the autumn, there are a very large number of estimable women in this city who are very earnest in this matter, and believe that there will be no trouble in making it work successfully at any time. They are working not so much for themselves as they are for their fellow-women who are compelled to travel during the early morning and late evening hours, and, if their belief that this can be made a success is true, we certainly should do all that we can to eliminate some of the discomfort that women are now compelled to submit to in the subway cars. While one of the complainant's witnesses, who rides only from 96th Street to 33d Street, admitted that by taking the local trains she avoided the crush, and though this way of avoiding the crowd is easy for short riders, we cannot expect the women who travel nearly the whole length of the line to forego the benefits of the express service.

In order to test the practicability of reserving one car for women and young children, I would recommend that beginning some time in July or August the Interborough Rapid Transit Company be required to set apart the rear car for women on express trains during rush-hours, and that an order be prepared accordingly.

The Commission issued the following order:

THE TRANSPORTATION COMMITTEE OF
FIFTY OF THE WOMAN'S MUNICIPAL
LEAGUE,

Complainants.

against

INTERBOROUGH RAPID TRANSIT COMPANY,
Defendant.

Case No. 1051.
Dismissal Order.
August 3, 1909.

"Reservation of rear cars on Subway Express
Trains for the Exclusive Use of Women and
Children."

A Hearing Order having been duly made by the Commission on April 12, 1909, upon the complaint of the Transportation Committee of Fifty of the Woman's Municipal League, undated and received by the Commission on or

about March 26, 1909, and answer of the Interborough Rapid Transit Company, undated and received by the Commission on or about April 5, 1909, and a hearing having been duly held before the Commission pursuant to said Hearing Order on April 23, 1909, Commissioner Eustis presiding, Leonard E. Opdycke, Esq., appearing for the complainant, Theodore L. Waugh, Esq., appearing for the Interborough Rapid Transit Company, Arthur DuBois, Esq., Assistant Counsel to the Public Service Commission, attending for the Commission, and it appearing after said hearing and the proceedings herein that sufficient reason does not exist for directing the reservation for the exclusive use of women and children of the rear car on subway express trains operated in the subway, it is

Ordered, That the said complaint be, and the same hereby is, dismissed.

Interborough Rapid Transit Company.—Side doors — Changes in cars now in use and type of cars to be purchased for future use in subway.

Case No. 629

Extension orders

Order abrogating final order

In the Matter
of the
Hearing on the motion of the Commission on the
question of improvement in and addition to the
service of the INTERBOROUGH RAPID TRANSIT COMPANY, in respect to changes in cars
now in use and in respect to type of cars to be
purchased for future use in the subway.

Case No. 629,
Extension Order.
January 15, 1909.

An order, No. 629, having been made herein on or about the 10th day of July, 1908, ordering and directing the Interborough Rapid Transit Company to reconstruct and have ready for operation not later than October 15, 1908, sixteen cars having four doors on each side, and the time within which to comply with said order having been extended to and including November 15, 1908, by the terms of Order No. 783, adopted October 16, 1908, and the time within which to comply with said Order No. 629 having been further extended to and including November 25, 1908, by the terms of Order No. 835 adopted November 16, 1908, and the time within which to comply with the said Order No. 629 having been further extended to and including January 15, 1909, by the terms of an order adopted November 27, 1908, and the said Interborough Rapid Transit Company having applied in writing for a further extension of such time,

Now, on motion made and duly seconded, it is

Ordered, That the Interborough Rapid Transit Company, in accordance with the terms of Order of the Commission No. 629, place in operation by February 5, 1909, eight cars having four doors on each side; eight additional cars having four doors on each side to be placed in operation by April 5, 1909.

CASE NO. 629, EXTENSION ORDER.

(February 5, 1909.)

An order, No. 629, having been made herein on or about the 10th day of July, 1908, ordering and directing the Interborough Rapid Transit Company to reconstruct and have ready for operation not later than October 15,

1908, sixteen cars having four doors on each side, and the time within which to comply with said order having been extended to and including November 15, 1908, by the terms of Order No. 783, adopted October 16, 1908, and the time within which to comply with said Order No. 629 having been further extended to and including November 25, 1908, by the terms of Order No. 835 adopted November 16, 1908, and the time within which to comply with the said Order No. 629 having been further extended to and including January 15, 1909, and the time of the said company within which to place in operation the first eight cars equipped with four doors on each side having been further extended to and including February 5, 1909, and the said Interborough Rapid Transit Company having applied in writing for a further extension of such time,

Now, on motion made and duly seconded, it is

Ordered, That the time of the Interborough Rapid Transit Company within which to place in operation the first eight cars equipped with four doors on each side be, and the same hereby is, extended to and including February 15, 1909.

CASE NO. 629, ORDER EXTENDING TIME AND PROVIDING FOR OPERATION.
(February 15, 1909.)

It is ordered, That the time of the Interborough Rapid Transit Company to put in operation cars constructed in accordance with the final order in this case be extended to and including February 16, 1909, and that the said order be modified so that the said company shall operate the said cars with side doors in accordance with instructions of Bion J. Arnold, Consulting Engineer of this Commission.

Commissioner Eustis presented an application from the Interborough Rapid Transit Company for an extension of time of sixty days to comply with the terms of the Final Order in Case No. 629, previously extended to April 5, 1909, covering the equipping of the second train of eight cars with side doors.

The Chairman rendered a verbal opinion, concurred in by Commissioners McCarroll and Maltbie, recommending that, in view of the length of time already elapsed since the commencement of the investigation into the side-door problem and the great urgency for immediate relief of the congested condition of traffic in the subway, also the fact that it would take four months to fill the orders for such new equipment as might be necessary, an extension of only thirty days be granted, and this only to permit the company to make a trial of a train of cars equipped with centre side doors, which would be ready within ten days.

Thereupon the following order was issued:

CASE NO. 629. EXTENSION ORDER.
(April 6, 1909.)

Ordered, That the time within which the remaining eight cars shall be equipped and operated as covered by final order herein, be, and hereby is further extended from April 5, 1909, to and including May 5, 1909.

CASE No. 629, EXTENSION ORDER.

(May 5, 1909.)

An order, No. 629, having been made herein on July 10, 1908, directing the Interborough Rapid Transit Company to reconstruct and have ready for operation not later than October 15, 1908, sixteen cars having four doors on each side, to be operated as two trains of eight cars each, and one such train having been reconstructed and put in operation, and the time within which the Interborough Rapid Transit Company should reconstruct and have ready for operation the second train of eight cars having heretofore been extended to May 5, 1909, and the Interborough Rapid Transit Company having requested further extension, now, therefore, it is

Ordered, That the date of the taking effect of the provisions of Final Order No. 629, in so far as the said order calls for the reconstruction and operation of the eight cars not heretofore reconstructed and operated, be and the same hereby is extended to May 15, 1909.

CASE No. 629, ORDER ABROGATING FINAL ORDER.

(May 14, 1909.)

A final order having been made herein on July 10, 1908, directing the Interborough Rapid Transit Company to provide by alteration and reconstruction not less than sixteen cars with side doors of a type described in Figure 14 of the report of Mr. Bion J. Arnold, dated February 18, 1908, and entitled "The Subway Car;" and said order having been modified by extending the time of construction of eight of the said cars; and one train of eight cars having been constructed pursuant to said order and having been placed in operation; and hearings having been had on the question of the type of subway car to be adopted under a new order for hearing dated February 19, 1909;

Now, therefore, it is

Ordered, That said final order made July 10, 1908, be and the same hereby is in all respects abrogated without prejudice to an order for further hearings and action thereon by the Commission in respect to any of the matters covered by the said final order dated July 10, 1908, or by the proceedings thereon.

Interborough Rapid Transit Company.—Use of side door cars.

Case No. 1074

Hearing Order

Opinion of the Commission

Final Order

Report

This proceeding was begun on motion of the Commission to determine whether all the cars of the company and those purchased for future use should be equipped with an additional side door or doors, on each side, with a view to facilitating the loading and unloading of passengers, and whether regulations should be prescribed as to the manner and method of operation of such cars and whether additional cars should be purchased. The Commission, on February 19, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on February 23d. Hearings were held on that date and subsequently until May 11th.

OPINION OF THE COMMISSION.

(Adopted May 14, 1909.)

COMMISSIONER EUSTIS: —

This hearing was ordered in the month of February, 1909, to be heard on the 23d of the month, as at that time the first train ordered by the Commission for side-door cars was then in operation, and there was a difference of opinion between the Commission's experts and those of the railroad in relation to the efficiency of said train.

The question of additional side-doors for subway cars was first taken up by the Commission in February, 1908; a hearing order No. 270 was issued, calling for a hearing on the 4th day of March, 1908. At this hearing the report of Bion J. Arnold, expert on side-door cars, was submitted, and then adjournments were had at various times, and testimony offered by the railroad company adversely to the type of side-door cars recommended by Mr. Arnold. The last hearing was had under that order on the 29th of June, 1908, when the matter was summed up by the attorney for the railroad company, and at this time the counsel for the railroad stated that Mr. Arnold had simplified the investigation very much because he had agreed with them in eliminating the centre side-door car with others. Final order was issued on the 10th day of July, 1908, being Order No. 629, which order required the Interborough Rapid Transit Company to reconstruct sixteen of their steel cars, in use in the subway, into the type of car described in "Figure 14" of the report of Mr. Bion J. Arnold, dated February 18, 1908, and the said cars to be completed and ready for operation not later than October 15, 1908. Thereafter, for various reasons that were satisfactory to the Commission, the company received extensions of time under said order down to the 15th day of February, 1909, for the first eight cars, at which time the said first eight cars were completed and put into operation; and the order was further extended for the remaining eight cars down to and including May 15, 1909.

During the testimony taken in this case, it developed that the Interborough Rapid Transit Company had changed their view. They still continued their contention that the type of car recommended by Mr. Arnold was a failure, and that the centre side-door car would be a more satisfactory type of car to use in the subway.

It would take a very long time to fully discuss the claims made by the experts for the Commission and those presented by the Interborough Rapid Transit Company, but sufficient for this decision is that the contention remained to the end of the hearing. Mr. Arnold and his associates, still affirming that the side-door car with the new side doors near the end of each car, if efficiently handled, would render better service than the centre side-door car, for the reason that it provided a very convenient and easy method of access and egress at the same time, and that the experiment of the original additional side-door train had conclusively proven to their minds that this circulation could be easily maintained; the company on the other hand contending that it was impossible for the guards to properly operate the additional side-doors of that train, that there was far greater danger of accidents, and that it would impose upon the company a very large additional expense in operation.

While this investigation was proceeding, Mr. Hedley, the Vice-President and General Manager of the Interborough Rapid Transit Company, stated that

he was anxious to construct an eight-car train with centre side-doors in order to prove his contention that this style of a train would be far superior to the one recommended by Mr. Arnold, and the hearings were extended for a sufficient time to allow Mr. Hedley to make this experiment, and, within a short time, he did reconstruct eight of their steel cars that had been originally manufactured so that they could be easily converted into centre side-door cars, and he put the train into operation on the 26th of April, 1909, and the train has continued in operation ever since. At the closing hearings Mr. Hedley testified that the result of the operation of this train was far superior to that of the first side-door train, that it was the best type of side-door car that had been presented to them. Our own experts also testified that the train was being handled so much more efficiently by the employees of the railroad company that it was doing as good or better service than they made the other train do.

It is evident to my mind, from my personal observation of the handling of the two trains and from statements made by both sides, that the operating force of the Interborough Rapid Transit Company were indifferent to the success of the first experiment, and they were exceedingly alert and active to show that the second experiment was a success; and they were allowed, in operating the centre side-door train, to operate it as they saw fit, and that was by using all doors at the same time, first all passengers out, and then all passengers in; and I would say in this connection that Mr. Hedley requested, when he made the experiment with the first train, that he be allowed to operate it in that way, stating that if operated in that manner he believed he could make it a success, but, if compelled to operate it as suggested by Mr. Arnold,—one door out and one door in,—it would not be a success. I am still convinced that if the same spirit had been shown toward making the original side-door train a success, as was shown in making the second train a success, it would have given equal or better satisfaction.

As this Commission is particularly interested in securing the greatest capacity, with the best possible comfort, under existing circumstances in the subway, I am of the opinion that it is best to allow the Interborough Rapid Transit Company to construct, if they prefer, centre side-door cars, as far better results are always accomplished by employees when they know they are operating an equipment that is approved by their employers, than when they are operating an equipment that they know their employers are adverse to and endeavoring to queer.

Mr. Hedley further testified that they had on hand forty-two steel cars of the same type of construction as those from which he made his present train of eight centre side-door cars, and that they could be converted into centre side-doors cars within two or three months.

It was also brought out upon the hearing that the installation of what is known as the speed-control that has been installed at 96th Street will enable the company to operate on a much shorter headway than at present. Mr. Hedley testified that he was now making the service during the rush-hours on a minute and forty-eight second headway, with the speed-control installed at 96th Street only, and that during the summer months he expected to have the speed-control system fully installed at 72d Street, 42d Street, 14th Street, and the Brooklyn Bridge stations, and that when that was completed they would be able to get their service down to a minute and thirty second head-

way; and that also, in his judgment, it would be necessary to purchase about one hundred additional cars to meet the increased facilities that they would have on account of the benefits of the said speed-control system.

I would therefore recommend that an order be entered vacating the balance of the old order requiring them to construct eight more cars of the end side-door type, and that they be required, before the 15th day of July, 1909, to convert five additional trains of eight cars each into side-door cars, either of the type now approved by them as centre side-door cars, or similar to the type of car recommended by Mr. Arnold and that thereafter they be required to construct at least two other trains per month, of eight cars each, of either of said types of side-door cars; and to continue the reconstruction of their equipment at this rate until all of the cars used in the express service in the subway are converted to side-door cars; and that they be required to increase their equipment by the purchase or acquisition of new cars, with the same style of side doors as they shall elect for the reconstruction of their old cars, prior to October 15, 1909, so that at that time they will have sufficient cars to maintain a one minute and thirty second headway on their express service.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service of the INTERBOROUGH RAPID TRANSIT
COMPANY in respect to Changes in Cars
now in use and in respect to Type of Car to be
purchased for future use in the Subway.

Case No. 1074,
Final Order.
May 14, 1909.

A hearing having been duly held before Mr. Commissioner Eustis on February 23d, February 27th, March 2d, March 23d, March 25th, April 1st, April 8th, April 22d, April 29th, May 3d, and May 11th, 1909; now it being made to appear after said hearing that the equipment, appliances and service of the Interborough Rapid Transit Company in respect to the transportation of persons in the First District in the subway are in certain respects unreasonable, improper or inadequate, and that additional doors should be provided in cars used on the express service in the subway, now therefore, on the evidence submitted, and on all proceedings herein, and upon the report of the Presiding Commissioner, which is hereby adopted, it is

Ordered, I. That the Interborough Rapid Transit Company have not less than forty additional metal subway cars to be used as five trains on the express service in the subway, all of said cars to be equipped with double doors near ends of the type described in Figure 14 of the Report of Mr. Bion J. Arnold, dated February 18, 1908, entitled "The Subway Car," or in lieu thereof with middle side doors of the type in use on the so-called "Centre Side Door Train" in operation in the subway from April 26, 1909, to May 12, 1909, and that the said five trains of eight cars each shall be ready for operation and put in operation not later than August 15, 1909.

II. That on or before the 15th day of October, 1909, the Interborough Rapid Transit Company shall, by purchase or otherwise, provide and put in operation new metal side door cars of the type selected from the two types of side doors described in Paragraph "I" above. The number of such

new metal side-door cars shall be sufficient to enable said company to maintain, by using the present standard equipment and the new side-door cars as reconstructed or purchased, their entire express service on the subway with eight-car trains running on a one minute and thirty second headway.

III. That the Interborough Rapid Transit Company shall, in the month of August, 1909, and in each and every month thereafter, until all cars in use on the express service of the subway are cars equipped with additional side doors of the selected type, provide and put in operation on the express service of the subway not less than sixteen metal subway cars in addition to those named in Paragraph "I" above, all of said cars to be equipped with side doors of the type selected and put in operation by the Interborough Rapid Transit Company from the two types of side doors described in Paragraph "I" above.

IV. That all cars hereafter purchased or acquired for service in the subway shall be of the side-door type selected from the two types of side doors described in Paragraph "I" above.

Further ordered, That the Interborough Rapid Transit Company notify the Public Service Commission for the First District in writing, not later than June 1, 1909, which type of side-door car it elects to use.

Further ordered, That this order shall take effect at once and remain in force until modified by the further order or orders of this Commission. And it is

Further ordered, That within ten days after service upon it of a copy of this order the Interborough Rapid Transit Company notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

MEMORANDUM OF PROGRESS ON SIDE-DOOR CARS.

Interborough Rapid Transit Co.

COMMISSIONER EUSTIS:

The last of the forty-two steel cars of the latest type have left the machine shop and all but six have left the paint shop. There are now three side-door trains in service besides the original one. It is expected that the last one, making six trains in all, will be put in service August 14th.

There are at the present time in the machine shop four cars with the Arnold type side-doors, ten other steel cars of the 1904 type, one of which was badly damaged by the 129th Street fire, and four composite, or copper-sheathed cars. All of the iron material for thirty-two of the 1904 cars is on hand, and work on all the above mentioned steel cars is well under way. The work on the copper-sheathed cars is not so far advanced, but as soon as a sample car of this type is ready the work on others will be pushed in order to get out some trailers for the trains now in service, all of the steel cars being motor cars.

Dated August 6, 1909.

Interborough Rapid Transit Company.—Operation of side door cars in subway.

Case No. 1190

Hearing Order

This proceeding was begun upon motion of the Commission to inquire into the operation of side door cars in the subway and to as-

certain whether changes, improvements or additions should be directed. The Commission, on December 17, 1909, directed (see blank form of hearing order, page 9) that a hearing be held December 21st. Hearings were held December 21st and 24th. No further action during 1909.

Interborough Rapid Transit Company.—Block signal system, subway local tracks.

Case No. 121

This proceeding was begun in 1907 upon motion of the Commission to inquire whether the equipment and devices of the company concerning its block signal system on subway local tracks were adequate. Hearings were held in 1907, 1908 and on January 8, 1909, and subsequent dates until September 17, 1909, when the matter was adjourned without date. No further action in 1909.

Interborough Rapid Transit Company.—Lack of destination signs in subway trains.

Case No. 1005

This proceeding was begun on the complaint of the New York City Federation of Women's Clubs and the Rapid Transit Committee of One Hundred against the company in respect to lack of destination signs in subway trains. Hearings were held on January 14 and January 22, 1909. As the company was engaged in posting maps in stations showing layout of routes and otherwise satisfying the complaint, the matter was held in abeyance. No further action in 1909.

Interborough Rapid Transit Company.—Lighting of subway cars and stations.

Case No. 1177

Hearing Order
Final Order

This proceeding was begun upon motion of the Commission to inquire regarding the lighting of cars and stations of the subway,

and to determine the character and extent of improvements thereto, if necessary. The Commission, on November 19, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on November 29th. Hearings were held November 29th and December 3d and 10th. The Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvements in the Service of
the INTERBOROUGH RAPID TRANSIT COM-
PANY as regards the Lighting of its Cars and
Stations.

Case No. 1177,
Order
December 14, 1909.

A hearing order having been duly made on November 19, 1909, on the question of improvements in the service of the Interborough Rapid Transit Company as regards the lighting of its cars and stations and a hearing having been duly had on due notice to said company before Chairman Willcox and Commissioner Eustis on the 29th day of November, 1909, and the 10th day of December, 1909, Mr. Theodore L. Waugh, of counsel for the Interborough Rapid Transit Company, appearing, and Mr. Henry H. Whitman, Assistant Counsel to the Commission, attending, and said hearing having been adjourned on said last mentioned day, except as to the matters hereinafter specifically determined, it is

Ordered, That on or before the 31st day of December, 1909, said Interborough Rapid Transit Company equip all of its cars in service with 16-candle power incandescent electric lamps in place and stead of the 10-candle power incandescent electric lamps now in use; and it is further

Ordered, That this order shall take effect immediately and shall continue in force until modified or abrogated by the Commission; and it is further

Ordered, That all other matters within the scope of said hearing await the determination and further order of the Commission to be made herein.

Interborough Rapid Transit Company.—Emergency organization for use in case of accident.

In the Matter
of the
Hearing on motion of the Commission on the
question of improvements in and additions to
the regulations, equipment and appliances of
the INTERBOROUGH RAPID TRANSIT COM-
PANY.

Case No. 477,
Dismissal Order.
February 23, 1909.

“Emergency organization for use in case of
accident.”

An Order of the Commission, No. 477, having been made herein on the 12th day of May, 1908, directing a hearing on May 25, 1908, in the matter of the maintaining of a complete emergency organization in the Subway

for use in case of accident, and it appearing from testimony taken at the said hearing and at hearings held on subsequent dates that an adequate emergency equipment is available in case of accident in the Subway, it is

Ordered: That the said proceedings be dismissed.

Interborough Rapid Transit Company.—Application by an association for a subway station at or near 122d Street and Broadway.

Case No. 1106

Hearing Order

Opinion of the Commission

Dismissal Order

This proceeding arose upon the application of the association for obtaining a subway station at or near 122d Street and Broadway, requesting the Commission to authorize a subway station at that place. The Commission, on May 7, 1909, directed (see blank form of hearing order, page 9) that a hearing be held on May 18th. A hearing was held on said date.

OPINION OF THE COMMISSION.

(Adopted June 18, 1909.)

COMMISSIONER MALTBIE: —

This application, although made formally by the Association for Obtaining a Subway Station at or near 122d Street and Broadway, evidences the desire of certain institutions and owners of property in the vicinity of the proposed location. This is the first time this matter has been before the Public Service Commission, but it was considered by the Rapid Transit Commission in 1906 upon the receipt of a resolution from the Board of Aldermen. No definite action was taken by the Rapid Transit Commission, but it ordered a report made by the chief engineer of the Commission to be sent to the Board of Aldermen, this report stating that it was "impracticable to construct any additional subway station between the 116th and Manhattan Street station."

At the hearing given in this matter, the applicants have maintained that it was physically possible to construct a station, the entrance of which would be at or near 122d Street, and the platforms of which would be south of 122d Street. It was admitted by a witness for the applicants, himself an engineer, that the construction of the station would necessitate a change in the subway for a considerable distance south of 122d Street, and in increase in the grade to 3 per cent for some distance. He estimated that the cost would be \$250,000. It is likely that the actual amount would be considerably larger, for the work would have to be done without interrupting the subway service, and the witness did not figure upon a 10-car platform and the additional change in grade made necessary thereby.

The applicants contended also that the station should be built because it would be of great convenience to the persons living in this locality, and because it would be used by students of the several schools in that vicinity and by the visitors to these institutions, the Grant Monument and Riverside Park. It was urged that the distance between the 116th Street and the Manhattan Street stations was excessive, being between twelve and thirteen blocks, or over .6 of a mile, and that the topography of the locality was such as to make it inconvenient for many to use the 116th Street station or the Manhattan Street station. It was stated that the population in this district is rapidly increasing, and that the number of persons using the present stations is also increasing, at a more rapid rate than the average for the entire subway.

The representatives of the Interborough Company opposed the construction of the station upon the ground that it was not needed, that it would increase the running time for all local trains going to or coming from the district north of 122d Street, that the station would be very expensive to construct, that the grades would be increased, and that the station would be located at the foot of a long 3 per cent grade.

"An examination will show that south of 96th Street there are no two stations in Manhattan so far apart as the 116th Street and Manhattan Street stations. Above Manhattan Street there are four stretches upon the Broadway line where the distance is as great or nearly as great as in the district now under consideration. It is probable that within the near future at least three of these sections will be broken up by the construction of additional stations. But even if this is done there will be several instances in Manhattan and The Bronx where the stations will be nearly one-half a mile apart, a distance almost as great as the present distance from the 116th Street station to the Manhattan Street station.

"However, the distance between stations is not the controlling factor in their location. A district that is very wide, very populous and served only by a single route should have stations located at shorter distances apart than a district which is narrow, which does not furnish a large traffic and which may be served by other routes. Coming down to the specific locality in question, it is found that the district which would be served by the station at 122d Street is that located north of 119th Street and south of 125th Street. The westerly boundary would be Riverside Park, which is but two short blocks from Broadway. The extreme easterly boundary would be Morningside Park, which is one long block and one short block from Broadway, and the center line of the block between Amsterdam Avenue and Convent Avenue. The point in this district farthest from the station could be reached by six minutes' walk, and the boundaries are so fixed by topographical conditions that the area tributary to the proposed station would never be larger than that just described.

"Comparing this area with the areas tributary to other stations upon the subway having no other means of rapid transit, it is found to be very small. For example, the maximum distance from the Manhattan Street station requires a nine minutes' walk; from 137th Street station, nine minutes; 145th Street station, ten minutes; 157th Street, eleven minutes; 168th Street,

eleven minutes; 116th Street, Lenox Avenue branch, ten minutes; 125th Street, ten minutes; and there are exceptional cases showing still greater distances. At present, with no station at 122d Street, the longest walk for a person who uses the 116th Street station would be nine minutes.

"Comparing these figures, it is apparent that at present the residents of the district near 122d Street and Broadway are not at a disadvantage compared with others, and that the construction of the station as proposed would give better facilities than the people have generally in the northern part of Manhattan and The Bronx. * * *

"The total area which would be tributary to the new station would be small, much less indeed than that surrounding any station immediately to the south or to the north. Furthermore, it does not seem likely that the number of persons using the new station would be large. Part of the tributary area is occupied by educational institutions whose policy, with two exceptions, is to develop the dormitory system. There is also a tendency upon the part of students, and those connected with the university directly or indirectly, to live in the immediate neighborhood. Consequently, the ratio of passengers to population would probably be less for the area about the new station than the normal. This is indicated by a comparison of the present ticket sales with the populated area for the stations in the immediate vicinity, and all told, it is probable that the new station at 122d Street would have not more than 40 per cent of the traffic at 137th Street, for example, about 60 per cent of the Manhattan Street station and of the Cathedral Parkway station, and about one-half that of the 103d Street station.

"The construction of the station presents certain engineering difficulties, but as these are not insurmountable, they need not be considered."

In view of these facts, it is not considered wise to recommend or order at this time the construction (at city expense) of the station requested by the applicants.

An order for dismissal of the application is herewith submitted.

Thereupon, the Commission issued the following order:

In the Matter
of the
Application of an Association for Obtaining a Subway Station at or near 122d Street and Broadway for a station at or near that point, on the line of the INTERBOROUGH RAPID TRANSIT COMPANY.

Case No. 1106,
Dismissal Order.
June 18, 1909.

The Association for Obtaining a Subway Station at or near 122d Street and Broadway having petitioned the Commission to direct the construction and maintenance of a station in the Manhattan-Bronx Rapid Transit Railroad, and a hearing having been held on May 18, 1909, and the Commission having considered the matter, it is on motion of Commissioner Maltbie

Ordered, That the petition of the Association for Obtaining a Subway Station at or near 122d Street and Broadway be and the same hereby is denied.

Interborough Rapid Transit Company.— Change of name of station at 66th Street.

Case No. 1023

Opinion of the Commission
Discontinuance Order

This proceeding arose in 1908. Hearings were held on January 18, 1909, and on January 25th.

OPINION OF THE COMMISSION.

(Adopted May 7, 1909.)

COMMISSIONER MALTBIE: —

I wish to report upon the request for the modification of the name of the 66th Street Subway Station. There were virtually two suggestions; one to change the name entirely from "66th Street" to "Lincoln Square," and the other to add "Lincoln Square" to the present designation, making it "Lincoln Square—66th Street." Having considered the matter carefully and discussed it in the Committee of the Whole, it seems inadvisable to change the name or modify it, in view of all considerations, and I, therefore, recommend that the request be denied.

Thereupon, the Commission issued the following order:

<p>In the Matter of the Hearing on the Motion of the Commission on the Question of the Suggested Change of Name by the INTERBOROUGH RAPID TRANSIT COM- PANY of the Subway Station at 66th Street to Lincoln Square.</p>	<p>Case No. 1023. Discontinuance Order May 7, 1909.</p>
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An order known as Hearing Order No. 1023 having been duly made by the Commission on December 22, 1908, on its own motion on the question of suggested change of name by the Interborough Rapid Transit Company of the subway station at 66th Street to Lincoln Square, and said hearing having been duly had on January 25, 1909, before Mr. Commissioner Maltbie, presiding, and J. T. Mason, Esq., appearing for the railroad company, and it being in the opinion of the Commission at present inadvisable to order the change of name of said station,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission; and it is

Further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order or by the proceedings thereon; and it is

Further ordered, That a copy of this order be served on the Interborough Rapid Transit Company.

Interborough Rapid Transit Company.—Changes in Duffield Street exit, at Hoyt Street Station, Borough of Brooklyn.

Case No. 1046

Hearing Order

Final Order

This proceeding was begun on motion of the Commission regarding changes in the Duffield Street exit at the Hoyt Street station of the Brooklyn-Manhattan subway. The Commission, on January 22, 1909, issued an order directing (see blank form of hearing order, page 9) that a hearing be had on February 3d. A hearing was had on that date. Thereafter the Commission adopted the following resolution:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in Regulations, Equip-
ment, Appliances or Service of the INTER-
BOROUGH RAPID TRANSIT COMPANY.

“Changes in Duffield Street Exit, Borough of
Brooklyn.”

Case No. 1046,
Final Order.
February 16, 1909.

WHEREAS, The contract dated July 21, 1902, between the City of New York, acting by the Board of Rapid Transit Railroad Commissioners for the City of New York, and Rapid Transit Subway Construction Company, under which the Brooklyn-Manhattan Rapid Transit Railroad was constructed, provided for the authorization of extra work as a part thereof; and

WHEREAS, Pursuant to a resolution adopted by the said Board of Rapid Transit Railroad Commissioners on July 13, 1905, the contractor, the said Rapid Transit Subway Construction Company, constructed as such extra work under said contract a stairway and passageway leading from the northbound platform of the Hoyt Street station of said railroad to the northwest corner of Duffield and Fulton Streets as an exit from said station; and

WHEREAS, The Public Service Commission for the First District has succeeded by virtue of the provisions of chapter 429 of the Laws of 1907, to all the powers and duties of the said Board of Rapid Transit Railroad Commissioners, and

WHEREAS, After a hearing duly held before Mr. Commissioner Bassett on the 3d day of February, 1909, the Commission is of the opinion that it is and will be just, reasonable, proper and adequate to direct that said stairway and passageway be used as an entrance to as well as an exit from said station in order to accommodate the traffic to and from it;

NOW, THEREFORE, be it

Resolved, That the contractor be and it hereby is authorized and directed to construct and install a ticket booth in said passageway and to do and

perform such other work as may be necessary to the end that said stairway and passageway may be used as an entrance to as well as an exit from said Hoyt Street station, the expense of such work to be deemed a part of the cost of constructing said railroad upon which the contractor is to pay rental, as in such contract provided, and to be ascertained and determined and paid to the contractor by the city in the manner provided in said contract of July 21, 1902; and

Further resolved, That Interborough Rapid Transit Company, be and it hereby is authorized and directed, upon the completion of the work hereby required to be done, to maintain and keep open said stairway and passageway as an entrance to and an exit from said Hoyt Street station.

Further resolved, That the changes necessary to allow the use of this exit as an entrance be completed not later than March 15, 1909, and that the entrance on Duffield Street be open for use not later than March 20, 1909.

Interborough Rapid Transit Company.— Connecting tunnel between Steinway and Interborough tunnels.

Case No. 1091

The Commission, on March 26, 1909, directed that a hearing be held under Order No. 615 on March 29th to inquire concerning the nature of and authority for the construction of a tunnel between the Steinway tunnel and the subway at or near Grand Central Station. Hearings were held March 29th and April 1st. It was stated at the hearings that the connecting tunnel was being constructed for the purpose of transmitting power and not for passengers. The matter was adjourned subject to call.

Safety Precautions and Devices.

Long Island Railroad Company.— Flagman at Merrick Road grade crossing on Montauk division at Springfield, Queens County.

Case No. 594

Opinion of the Commission
Final Order

This proceeding was begun in 1908 upon motion of the Commission to determine whether it was necessary that a flagman be

stationed at the Merrick Road crossing on the Montauk division of the company's line at Springfield, Queens County. Hearings were held during 1908.

OPINION OF THE COMMISSION.

(Adopted August 20, 1909.)

COMMISSIONER BASSETT: —

It seems to me that the safeguards at this railroad crossing are insufficient and that a flagman should be maintained by the railroad at this point at all hours of the day and night. Merrick Road is one of the main thoroughfares from the city to all of Long Island and is used day and night by wagons, trucks and automobiles. Trucks bringing produce to the city use the crossing largely in the very early morning hours. At present there is a flagman stationed here in the day time, but not at night. There is also a signal bell. It is not alone a question of whether drivers can see approaching trains. A high degree of protection to the public should be given on main thoroughfares like this. When a vehicle having a single driver breaks down on such a railroad crossing when no attendant is present he is quite at the mercy of approaching trains. In one accident at this point brought to the attention of the Commission a wagon and team of horses was caught or stalled here for more than a quarter of an hour, and then notwithstanding the efforts of the single driver was struck by a fast moving train and two horses were killed. An order should issue directing that the company should maintain a flagman at this crossing at all hours of the day and night.

Thereupon the Commission issued the following order.

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on the motion of the Commission on the Question of Regulations, Practices, Appliances and Service of the LONG ISLAND RAILROAD COMPANY.</p> <p>Flagman at Merrick Road Grade Crossing on the Montauk Division at Springfield, Queens County.</p>	<p>Final Order under Hearing Order No. 594 August 20, 1909.</p>
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The Commission being of opinion after hearing duly held on October 13, 1908, and on October 20, 1908, before Mr. Commissioner Bassett, presiding, C. L. Addison, Esq., appearing for the Long Island Railroad Company and Arthur DuBois, Esq., attending for the Commission, that the regulations, equipment and service of the Long Island Railroad Company at the Merrick Road crossing on the Montauk Division at Springfield, Queens County, have been and are unsafe, improper and inadequate in that insufficient protection is given vehicles and pedestrians using the Merrick Road crossing the railroad tracks during certain hours of the day and night,

Now, therefore, it is

Ordered, That the Long Island Railroad Company be and it hereby is directed and required to station and maintain during the entire twenty-four hours of each day including Sundays and holidays a flagman or flagmen at the grade crossing of Merrick Road across the tracks of its Montauk Division at Springfield, Queens County, Long Island.

Further ordered, That this order take effect on August 31, 1909, and remain in force until further order of the Commission.

Further ordered, That the Long Island Railroad Company notify the Public Service Commission for the First District within five days after service of this order upon it whether the terms of this order are accepted and will be obeyed.

Long Island Railroad Company.— Safety precautions at Fresh Pond Road.

Case No. 772.

This proceeding was begun in 1908 upon motion of the Commission to determine whether the safety precautions at Fresh Pond road crossing were sufficient and adequate, and a final order issued during that year. On December 31, 1908, an order was issued by the Commission directing that a hearing be had as to compliance by the company with said final order on January 6, 1909. A hearing was held on that date and also on January 12, 1909. No further action was taken in 1909.

Long Island Railroad Company.—Inadequate protection at Division Avenue crossing, Richmond Hill.

Case No. 1131

Complaint and Hearing Order
Opinion of the Commission
Final Order
Rehearing Order
Opinion after rehearing
Order denying application for
modification of final order

This proceeding came up on the complaint of George Cook against the company alleging inadequate protection at the crossing at Division Avenue, Richmond Hill. The Commission, on July 2, 1909, issued a complaint and hearing order (see blank form of complaint and hearing orders, pages 7 and 8). Hearings were held on August 3d and 12th.

OPINION OF THE COMMISSION.

(Adopted August 27, 1909.)

COMMISSIONER BASSETT: —

The complainant in substance states that the protection given to the public by the defendant at the crossing at Division Avenue, Richmond Hill, is inade-

quate and that the present protective devices cause undue inconvenience, delay and danger. The high ground sometimes called the backbone of Long Island consists of a ridge running easterly from Prospect Park, Brooklyn. It extends through Queens County in a generally eastern direction. Richmond Hill, Borough of Queens, is a locality on the southern slope of this ridge about two miles west of Jamaica, which is also on the southern slope of the same ridge. The Long Island Railroad proceeding from Long Island City, which lies to the north of this ridge, breaks through the high ground in a southeasterly direction, employing a cut to decrease the gradients. The crossing in question is where the railroad descending the slope on its way to Jamaica crosses at right angles Division Avenue, also descending the slope in a southeasterly direction. From this crossing the railroad descends on a slight grade to Richmond Hill station, a distance of about 2000 feet and thence proceeds easterly to Jamaica. The railroad consists of double tracks. The local trains stop at Richmond Hill and through trains do not. The protection now afforded by the railroad company consists of the usual warning sign post and an electric gong. There is no gate or flagman. The complainant and other citizens allege and testify that under all the circumstances this protection is inadequate and improper. The company, however, insists that it affords adequate protection at present. The main danger occurs when vehicles descending Division Avenue meet trains descending the grade toward Jamaica. Drivers cannot see the trains until within about fifty feet of the track. There is no possibility of stopping trains in time as they descend this grade. If the bell is in order, as for the present we will assume it is, the approaching driver cannot tell whether the train is coming down the hill or up the hill. If it is coming down the hill it will reach the crossing in about thirty seconds after the bell begins to ring, but if it is coming up the hill it will reach the crossing in about thirty seconds after the bell begins to ring if it is an express, or in from two to six minutes if it is a local. The reason why the bell rings so long before the ascending local trains reach the crossing is because the bell begins to ring just before the train stops at Richmond Hill station and continues ringing as long as it stands there and until it reaches the crossing. The testimony shows that there are independent circuits connected with the bell in each direction. It follows that drivers cannot tell from the beginning of the ringing how soon the train will be at the crossing. True it is that any driver that would cross while the bell is ringing is probably guilty of contributory negligence if struck, but it is a grave question whether the bell arrangement at this crossing is not an invitation to drivers to subject themselves to danger. If on three or four occasions a driver has approached the track while the bell was ringing and noticed that the train is standing 2000 feet away at the Richmond Hill station, he is tempted to proceed upon the track next time, forgetting or neglecting to consider that at that particular time the train is descending the hill from the other direction and may be upon him in twenty-five seconds. In other words, the announcement of the bell is not uniform, and to such extent as the announcement lacks uniformity it is an inducement of danger. The foregoing discussion is based upon the bell always being in perfect order. Testi-

mony of many apparently credible witnesses was to the effect that the bell is from time to time out of order. The company on its part testified that it has given especially careful attention to the upkeep of this bell. If, as seems to be the case, notwithstanding the efforts of the company this bell is occasionally out of order, this crossing then becomes an exceedingly dangerous one.

This crossing is in a settled part of the city. Houses are near and a school-house is not far distant. Division Avenue while not a main artery is largely used by all sorts of vehicles. Tabulations of vehicular traffic have been placed before the Commission which show that the crossing is frequently used. I conclude that on the average a vehicle crosses it about every fifteen minutes during the business day. At other times its use would be far less. Trains pass frequently as this is a much used branch of the Long Island Railroad. Certainly under the circumstances of the gradient on both railroad and roadway, of the frequent and fast moving trains and of the amount of traffic and local settlement, the highest duty is imposed upon the railroad company to protect this crossing. Railroad grade crossings present dangerous conditions even at the best and as long as they continue in localities that are settled and on roadways that have a fair amount of traffic, the railroad company should protect them in the best and most adequate manner. It therefore seems to me that the railroad company should place gates at this crossing such as may be lowered when trains are approaching and that a man should be kept in charge at all times when trains are running on these tracks, and I recommend that an order issue accordingly.

Thereupon the Commission issued the following order:

<p>In the Matter of the Complaint of GEORGE COOK against THE LONG ISLAND RAILROAD COMPANY.</p> <hr/> <p>"Inadequate Protection of Crossing at Division Avenue, Richmond Hill."</p>	<p>Case No. 1131, Final Order. August 27, 1909.</p>
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A hearing having been had in the above-entitled matter on August 3, 1909, and August 12, 1909, before Commissioner Bassett, presiding, Arthur Du Bois, Esq., Assistant Counsel, appearing for the Commission, and George Cook, Esq., complainant, appearing in person, and C. L. Addison, Esq., appearing for the Long Island Railroad Company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that changes and improvements in and additions to the equipment and appliances of said the Long Island Railroad Company upon and near its line running through Richmond Hill, in the Borough of Queens, City of New York, at the point where said line intersects and crosses Division Avenue, in said Richmond Hill, ought reasonably to be made in the manner hereinbelow set forth, in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers, and that it would be reasonable to require that such improvements and additions be made by or before the date hereinbelow mentioned;

Now, therefore, it is

Ordered, (1) That said The Long Island Railroad Company be and it hereby is directed and required to install and erect and maintain across said Division Avenue and on each side of the tracks of said company at the point where said tracks cross said Division Avenue suitable and proper safety gates, and erect and operate the same in such manner as to adequately prevent the use of said crossing by pedestrians or vehicles at all times when trains upon said company's line shall be approaching said Division Avenue and crossing the same.

(2) *It is further ordered*, That said company be and it hereby is directed and required to keep and employ one or more competent gatemen, who shall be kept in charge of said gates at all times when trains are operated on this line, and whose duty it shall be to lower the gates when trains are approaching from either direction.

(3) *It is further ordered*, That said gates be installed and erected and placed in operation by or before the 15th day of October, 1909, and thereafter maintained and operated in the manner hereinbefore mentioned.

(4) *It is further ordered*, That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

(5) *It is further ordered*, That said The Long Island Railroad Company notify the Public Service Commission for the First District on or before September 3, 1909, whether the terms of this order are accepted and will be obeyed.

The company having made application for a rehearing as to the matters contained in the final order, the Commission, on September 14, 1909, directed that a rehearing be had on September 24th. A hearing was held on that date.

OPINION OF THE COMMISSION.

(Adopted October 13, 1909.)

COMMISSIONER BASSETT: —

The order of the Commission herein was to the effect that gates should be installed at this crossing and an operator should be in attendance night and day. The railroad company asked for a rehearing on the grounds that the night traffic did not warrant the expense of keeping a man at this crossing and that on this account a flagman during the daytime should be sufficient, and a modification of the order to this effect was asked for. The Commission granted the rehearing, which has been duly held.

If a flagman is placed at this crossing only during the daylight hours, or if gates are operated only during such hours, the crossing would only be partially protected. The schedules show that the first passenger train going east passes Richmond Hill at 4:10 A. M. and the first train going west at 5:59 A. M.; the last train going east at 12:27 A. M. and the last train going west at 12:18 A. M. This would indicate that there are no passenger trains over this crossing between 12:27 A. M. and 4:10 A. M., but the evidence shows that there are freight trains passing over this crossing between those hours.

A flagman is not a positive control over vehicular traffic, while gates are a positive control. Properly to protect this crossing it should be equipped

with gates to be lowered with every train movement over the crossing. As I pointed out in my former opinion in this case, this crossing is on a side hill with the lines of sight badly obstructed. If the crossing is only partially protected by flagman or gates it would probably serve to confuse, as for instance a pedestrian or person driving a vehicle, being used to the gates being lowered or obstructed by a flagman during the daylight hours, would attempt to pass the crossing of the railroad at night, and not being held up by gates or flagman would conclude that the crossing was clear, and might be struck by a passing train.

I therefore recommend that no modification be made in the order now effective herein and that the application for a modification be denied.

Thereupon the Commission issued the following order:

CASE NO. 1131, ORDER DENYING APPLICATION FOR MODIFICATION OF FINAL ORDER.

(October 13, 1909.)

A final order in the above entitled matter having been made on August 27, 1909, and The Long Island Railroad Company having made application to the Commission for a rehearing in respect to the matters determined therein, and a rehearing having been had in respect thereto on September 24, 1909, before Mr. Commissioner Bassett, presiding, George Cook, Esq., the Complainant, appearing in person, C. L. Addison, Esq., appearing for The Long Island Railroad Company, Arthur DuBois, Esq., attending for the Public Service Commission for the First District, and the Commission being of opinion that said original order is not in any respect unjust or unwarranted, and that the same should not be abrogated, changed or modified, now therefore, it is

Ordered, That the application of The Long Island Railroad Company for the modification of the final order herein be, and the same hereby is, denied.

Long Island Railroad Company.—Safety precautions at the grade crossing on the Montauk Division at Springfield, Queens County.

Case No. 1151

Hearing Order

Opinion of the Commission

Final Order

This proceeding was begun on motion of the Commission to determine whether it was necessary in order to safeguard the grade crossing of the company on the Montauk Division at Springfield to direct the installation and maintenance of gates. The Commission on August 20, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on September 3d. A hearing was held on that date.

OPINION OF THE COMMISSION.

(Adopted September 21, 1909.)

COMMISSIONER BASSETT: —

By order No. 594 made August 20, 1909, the Long Island Railroad Company was directed to maintain a flagman at the Merrick Road crossing on the Montauk Division at Springfield, Borough of Queens, during the night as well as the day. It is probable that the evidence adduced in the hearings prior to such order would have warranted a direction by the Commission that gates should be installed. It was considered, however, that the scope of the hearing was not sufficiently broad to warrant the direction for gates.

The Commission after making the order above referred to directed that a proceeding should be instituted on the motion of the Commission and hearings held to ascertain whether gates should be installed at this crossing. A hearing has been duly held herein and from the evidence given it appears to me that proper protection of the public at this crossing requires the installation of gates and the maintenance of an operator day and night.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Changes and Improvements in and
Additions to the Equipment, Appliances and Serv-
ice of THE LONG ISLAND RAILROAD COM-
PANY in respect to safety precautions at the
grade crossing on the Montauk Division at
Springfield, in the Borough of Queens, known as
the Merrick Road Crossing.

Case No. 1151,
Final Order.
September 21, 1909

A hearing having been had in the above entitled matter on September 3, 1909, before Commissioner Bassett, presiding, H. M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and C. L. Addison, Esq., appearing for The Long Island Railroad Company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that changes and improvements in and additions to the equipment, appliances and service of said, The Long Island Railroad Company, in and in connection with the transportation of passengers, freight and property, upon and near its line known as the Montauk Division, running through Springfield, in the Borough of Queens, City of New York, at the point where said line intersects and crosses the Merrick Road, near Springfield station, on said line, ought reasonably to be made in the manner hereinbelow set forth, in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers, freight and property, and that it would be reasonable to require that such changes, improvements and additions be made by or before the date hereinbelow mentioned, now therefore, it is

Ordered, (1) That said, The Long Island Railroad Company, be and it hereby is directed and required to install and erect and maintain across said Merrick Road and on each side of the tracks of said company's line known as the Montauk Division, at the point where said tracks intersect and cross said Merrick Road, suitable and proper safety gates and to erect and operate the same in such manner as adequately to prevent the use of said crossing

by pedestrians or vehicles at all times when trains upon said company's line shall be approaching said Merrick Road and crossing the same.

(2) *It is further ordered*, That said company be and it hereby is directed and required to employ one or more competent gatemen who shall be kept in charge of said gates at all times when trains are operated on this line, whose duty it shall be to lower the gates when trains are approaching this crossing from either direction.

(3) *It is further ordered*, That said gates be installed and erected and placed in operation by or before the 1st day of December, 1909, and thereafter maintained and operated in the manner hereinbefore mentioned.

(4) *It is further ordered*, That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

(5) *It is further ordered*, That nothing herein contained shall be deemed to abrogate, change or modify the final order of this Commission issued under Hearing Order No. 594, dated the 20th day of August, 1909, effective August 31, 1909, directing and requiring said company to station and maintain during the entire twenty-four hours of each day, including Sundays and holidays, a flagman or flagmen at the said Merrick Road grade crossing; but it is ordered that after gates shall have been installed and erected and placed in operation as hereinbefore provided, said final order under Hearing Order No. 594 shall thereupon be deemed to be abrogated.

(6) *It is further ordered*, That said, The Long Island Railroad Company, notify the Public Service Commission for the First District on or before September 30, 1909, whether the terms of this order are accepted and will be obeyed.

Long Island Railroad Company.— Safety precautions at Vernon Avenue crossing in Long Island City.

Case No. 1164

Opinion of Counsel

Hearing Order

Opinion of the Commission

Final Order

Resolution approving plans

This proceeding was begun on motion of the Commission to determine whether the safety precautions at the Vernon Avenue crossing of the company in Long Island City were adequate. This proceeding was the result of an accident to one Herman Gebhardt at the crossing in question.

The Commission, on September 21, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on October 5th. A hearing was held on that date.

OPINION OF THE COMMISSION.

(Adopted October 22, 1909.)

COMMISSIONER BASSETT: —

This proceeding was begun on the motion of the Commission following the killing of Herman Gebhardt at this crossing by a rapidly moving train. The

crossing is only partially protected by gates, and although it is probably impossible to prevent an occasional foot passenger going under, over or around a gate, the present arrangement is almost an invitation not only for foot passengers but for vehicles to go upon the tracks.

Where the multitude of tracks of the Long Island Railroad enter the Long Island City or 34th Street ferry station there formerly existed one of the most dangerous and congested crossings in the city. Vernon Avenue running parallel with the East River carried the vehicular traffic proceeding between Long Island City and Brooklyn across these railroad tracks. Gates were operated but the frequency of train movements caused the gates to be kept down for long periods during which street traffic was suspended. As both street traffic and railroad traffic increased it became more necessary to separate the grades and this was done by the building of the Vernon Avenue viaduct, which carried the street traffic over the railroad tracks. Vernon Avenue was elevated all the way between the Long Island Railroad and Newtown Creek, leaving a considerable area far below grade. This area lying between the railroad tracks and Newtown Creek, built up with stores and manufactories, could not use the viaduct and was still compelled to cross over the tracks at grade.

For the purpose of building the viaduct sufficiently wide the city widened Vernon Avenue from 75 feet to 120 feet. Thus the street width where the surface of the street crosses the railroad tracks under the viaduct is wider than is needed for the traffic of the area between the tracks and Newtown Creek. On this account part of the roadway having a width of forty feet is protected by gates but the other part lying to the east and having a width of eighty feet is not only not protected but no roadway whatever has been constructed. One might say that the only protection for this portion of the street is the network of tracks projecting above the surface. The question is whether the railroad should protect this area, and how.

There has been since the erection of the viaduct a dispute between the city and the railroad regarding ownership and control of the surface of Vernon Avenue. Without going into the merits of this dispute, it is plainly the duty of the Commission to see that this railroad crossing is adequately protected so long as it exists. Whether the railroad company or the city shall pave the entire street, or whether the entire street shall be closed now that the viaduct is in use, are questions to be worked out by other authorities. The crossing is at present only partly protected and as it stands is an invitation to possible accidents.

Property owners to the south of the tracks object, apparently with considerable reason, to placing a tight board fence across the street where it is not protected by the gates, because such an obstruction cuts off their locality from view. In the course of the hearing it appeared that the property owners would not object to a permanent protection of some sort that would not obstruct the view but would still prevent foot passengers or vehicles passing upon the tracks from those parts of the street that are not protected by gates. The railroad company also expressed itself as willing to adopt such a plan. I therefore recommend that the company should submit plans to the Commission showing such a protective fence, or showing part fence and part gates. After these plans are filed with the Commission notice should be given to the borough authorities and appearing property owners so that they can inspect

the plans. After the Commission has approved such plans the company should cause the protection devices to be installed. The order should fix the date before which plans should be filed and a period of time after notice of approval when the protection devices should be completed.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on the Motion of the Commission upon the question of additional safety precautions at the Vernon Avenue Crossing of the tracks of the LONG ISLAND RAILROAD COMPANY in Long Island City.</p>	}	<p>Case No. 1164, Final Order. October 22, 1909.</p>
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The Commission being of opinion after a hearing duly held on October 5, 1909, before Mr. Commissioner Bassett, presiding, C. L. Addison, Esq., appearing for the Long Island Railroad Company, Arthur DuBois, Esq., attending for the Commission, that the regulations, equipment and service of the Long Island Railroad Company at the Vernon Avenue crossing, Borough of Queens, have been and are unsafe, improper and inadequate in that insufficient protection is given vehicles and pedestrians using the Vernon Avenue grade crossing over the railroad tracks, now therefore, it is

Ordered, That the Long Island Railroad Company be and it hereby is directed

(1) To construct, maintain and operate at all hours of the day and night in which trains are operated past the said crossing proper gates extending across the entire paved portion of Vernon Avenue.

(2) To construct and maintain suitable open fences across that portion of Vernon Avenue now unpaved; said fences to be so constructed as not entirely to obstruct the view of those using the street and yet to confine vehicles and pedestrians to that portion of Vernon Avenue which is paved and suitable for street use.

(3) That the Long Island Railroad Company not later than November 6, 1909, submit to the Commission for its approval plans showing the location and detail of construction of the proposed fences and of the gates.

(4) That the construction of the said fences and of the gates be completed within thirty days after approval of the plans by the Commission.

Further ordered, That this order shall take effect at once and shall continue in force until such time as Vernon Avenue may be paved for its entire width, or until a further order of the Commission.

Further ordered, That the Long Island Railroad Company notify the Public Service Commission for the First District within five days after service of this order upon it whether the terms of this order are accepted and will be obeyed.

CASE NO. 1164. RESOLUTION APPROVING PLANS.

(December 24, 1909.)

WHEREAS, By final order in the above entitled proceeding made October 22, 1909, the Long Island Railroad Company was directed to submit to the Commission for its approval plans showing location and detailed construction of proposed fences and gates at the Vernon Avenue crossing in Long Island City, and

WHEREAS, Pursuant to said order the Long Island Railroad Company did submit a blue print drawing entitled "End View of Vernon Avenue crossing looking south from Borden Avenue, Long Island City. October 28, '09. Office of Engineer M. of W., L. I. R. R. Co." and a blue print drawing with additional drawing and lettering in red ink entitled "L. I. R. R. plan of Vernon Avenue Grade Crossing. L. I. City, Oct. 28, '09. Office Eng'r M. of W."

Resolved, That the plans as submitted be and the same hereby are approved.

Long Island Railroad Company.—Safety precautions at the Woodside station of the Northside Division and the Woodside crossing on the Main Line Division.

Case No. 1173

Hearing Order

Discontinuance Order

This proceeding was begun on motion of the Commission to determine whether changes and improvements ought reasonably to be made at the Woodside station on the Northside Division, and at the adjacent Woodside crossing on the Main Line Division of the company. The Commission, on October 26, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on November 11th. A hearing was had on said date and on December 29th the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Additional Safety Precautions at
the Woodside Station of the Northside Division
and the Woodside Crossing on the Main Line
Division of the LONG ISLAND RAILROAD
COMPANY.

Case No. 1173,
Order of Discontinuance.
December 31, 1909.

An order having been duly made herein by the Commission on October 26, 1909, directing that a hearing be had on the question of additional safety precautions at the Woodside Station of the Northside Division and the Woodside Crossing on the Main Line Division of the Long Island Railroad Company, and said order having been duly served upon the Long Island Railroad Company, and said hearing having been duly had in pursuance thereof before the Commission, Commissioner Bassett presiding, on November 11, 1909, and by adjournment duly had on December 29, 1909, and it appearing to the satisfaction of the Commission that the dangerous conditions upon which said order for hearing was based have been remedied;

Now, therefore, it is hereby

Ordered, That this proceeding be and the same hereby is in all respects discontinued without prejudice to an order for further hearing or hearings and action thereon by the Commission in respect to any of the matters covered by said order for hearing or by the proceeding thereon.

Long Island Railroad Company.—Safety precautions at the Grant Avenue and Napier Place crossing on Atlantic Avenue.

Case No. 1195

Hearing Order

This proceeding was begun on motion of the Commission to determine whether changes or improvements ought reasonably

to be made at the Grant Avenue and Napier Place crossing of the tracks of the Long Island Railroad Company at Atlantic Avenue. The Commission, on December 21, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on January 5, 1910.

Nassau Electric Railroad Company.—Safety precautions and devices at 86th Street, Brooklyn.

Case No. 585

Extension Order

This proceeding was instituted in 1908 on motion of the Commission and hearings had during that year, and an order issued directing the company to install on or before October 1, 1908, and maintain across 86th Street and on each side of the tracks suitable safety gates. The company having subsequently made applications for extensions of time within which to comply with the terms of said order, such requests were granted during 1908 and on January 5, 1909, the Commission issued an order (see blank form of extension order, page 8) further extending the time of the company to January 15, 1909.

New York Central and Hudson River Railroad Company; New York, New Haven and Hartford Railroad Company and Long Island Railroad Company.—Provisions for the safety of employees working on tracks or right-of-way.

Case No. 1072

Hearing Order

Final Order

Order amending Final Order

Order for rehearing

Order dismissing petition for
abrogation or amendment

This proceeding was begun on motion of the Commission to inquire whether the regulations, practices, equipment, appliances or service of the New York Central and Hudson River Railroad Company, the New York, New Haven and Hartford Railroad

Company and the Long Island Railroad Company were unreasonable, unsafe, improper or inadequate, and to determine a manner of affording safety to employees or others engaged in any work on the tracks or rights-of-way of the companies. The Commission, on February 19, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on March 3d. Hearings were held on March 3d and 10th. Thereafter, the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>•Hearing on the Motion of the Commission on the Question of Providing for the Safety of Employees Engaged in Work on the Tracks or Right-of-way of the NEW YORK CENTRAL & HUDSON RIVER RAILROAD COMPANY, the NEW YORK, NEW HAVEN & HARTFORD RAILROAD COMPANY and the LONG ISLAND RAILROAD COMPANY on all Lines within the City of New York.</p>	<p>Case No. 1072, Final Order. April 2, 1909.</p>
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The Commission being of opinion after a hearing on its own motion, duly held before Mr. Commissioner Eustis, on March 3, 1909, and March 10, 1909, that the regulations and practices of the New York Central and Hudson River Railroad Company, the New York, New Haven and Hartford Railroad Company and the Long Island Railroad Company on the portions of their lines within the City of New York are in certain particulars unsafe, improper and inadequate in that insufficient precautions are taken to secure the safety of employees of said companies and others engaged in work on or connected with any of the tracks of said companies within the City of New York,

Now, therefore, it is

Ordered, That each of the said companies enforce the following regulation on all lines within the City of New York, i. e., that wherever a crew consisting of two or more men is working on or about the tracks of said companies a watchman shall be stationed protecting the said crew, the watchman to be stationed at all times where he can see any approaching engine, car or train and give notice of its approach to the workmen. Each of the said watchmen shall give suitable warning in time to allow his crew to reach a place of safety.

Further ordered, That all other rules now in force for the protection of working crews not inconsistent with the rule above prescribed shall remain in force and not be affected by this order.

Further ordered, That this order shall take effect on April 15, 1909, and remain in force until revoked or modified by order of the Commission.

Further ordered, That within five days after service on it of a copy of this order each of said companies notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

CASE NO. 1072. ORDER AMENDING FINAL ORDER.

(April 9, 1909.)

An order having been made by this Commission upon April 2, 1909, in the above entitled matter and the New York Central and Hudson River Railroad Company, the Long Island Railroad Company and the New York, New Haven and Hartford Railroad Company having by letter, dated April 7, 1909,

applied to the Commission for a modification of the terms of said order, and the Commission being of opinion after consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth, it is hereby

Ordered, That said order of April 2, 1909, be and the same hereby is amended so that the said order as amended shall read as follows:

CASE NO. 1072, FINAL ORDER.

The Commission being of opinion after a hearing on its own motion, duly held before Mr. Commissioner Eustis, on March 3, 1909, and March 10, 1909, that the regulations and practices of the New York Central and Hudson River Railroad Company, the New York, New Haven and Hartford Railroad Company and the Long Island Railroad Company on the portions of their lines within the City of New York are in certain particulars unsafe, improper and inadequate in that insufficient precautions are taken to secure the safety of employees of said companies and others engaged in work on or connected with any of the tracks of said companies within the City of New York,

Now, therefore, it is

Ordered, That each of the said companies enforce the following regulations on all electrically operated lines within the City of New York, i. e., that wherever a crew consisting of two or more men is working on or about the tracks of said companies a watchman shall be stationed protecting the said crew, the watchman to be stationed at all times where he can see any approaching engine, car or train and give notice of its approach to the workmen. Each of the said watchmen shall give suitable warning in time to allow his crew to reach a place of safety.

Further ordered, That all other rules now in force for the protection of working crews not inconsistent with the rule above prescribed shall remain in force and not be affected by this order.

Further ordered, That this order shall take effect on April 15, 1909, and remain in force until revoked or modified by order of the Commission.

Further ordered, That within five days after service on it of a copy of this order each of said companies notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The Long Island Railroad Company having, on April 9th, made application asking for a rehearing, the Commission, on April 12th, issued an order (see blank form of hearing order, page 9) directing that a rehearing be had on April 21st. A hearing was held on that date. The Commission issued the following order:

CASE NO. 1072, ORDER DISMISSING PETITION.

(April 23, 1909.)

An order amending final order having been made herein on April 9, 1909, directing certain changes in the regulations and practices of the New York Central and Hudson River Railroad Company, the New York, New Haven and Hartford Railroad Company and the Long Island Railroad Company on all electrically operated lines within the City of New York; and the Long Island Railroad Company having made application in writing for a rehearing in respect to the matters determined by said order amending final order; and said application for rehearing having been granted and a rehearing having been had herein pursuant to an order of the Commission, on the 21st day of April, 1909, before Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and C. L. Addison, Esq., appearing for said Long Island Railroad Company; and the Commission being of the opinion after such rehearing and after a consideration of the facts, including those arising since the making of said

order amending final order, that said order amending final order is not unjust or unwarranted and that the same should not be abrogated, changed or modified; and said Long Island Railroad Company having upon said rehearing expressed its willingness to accept and obey said order amending final order as issued without further change or modification,

Now, therefore, it is

Ordered, That the petition of the company that the order herein be vacated or resettled and amended in so far as it is to be applicable to said company, be and the same hereby is denied.

Richmond Light and Railroad Company and Staten Island Midland Railway Company.—Equipment of Circuit Breakers.

Case No. 377

Case No. 378

Report of Commissioner McCarroll.

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvements in and Additions to
the Service and Equipment of THE RICHMOND
LIGHT AND RAILROAD COMPANY and THE
STATEN ISLAND MIDLAND RAILWAY COM-
PANY.

Orders 377 and 378.

REPORT RE EQUIPMENT OF CIRCUIT BREAKERS.

To the Public Service Commission for the First District:

Pursuant to Orders 377 and 378 the Richmond Light and Railroad Company and The Staten Island Midland Railway Company installed circuit breakers on their cars for the summer service. An inspection showed that the manner in which this was done was faulty, as set forth in a report of Electrical Engineer McLimont, hereto attached. I, therefore, took up informal proceedings with the company, through Mr. Mullen, Superintendent. Several conferences were held, at some of which Electrical Engineer McLimont was present. He pointed out to Mr. Mullen the objections to the manner in which the work had been done. While not agreeing with Mr. McLimont as to this, and contending that the equipment was all that was necessary and a compliance with the order, Mr. Mullen stated that they would, nevertheless, proceed, if the Commission insisted, to equip the cars in accordance with the suggestions made by Mr. McLimont, which he conceded would be an improvement over the equipment they had installed. After full conference with Electrical Engineer McLimont, it seemed best to state to the company that it should so proceed, and on February 20, 1909, I addressed a communication to Mr. Mullen to that effect. In his acknowledgment of February 24, 1909, he stated that the company would undertake the work and as soon as the necessary fuse boxes, etc., could be obtained would install the same.

On April 26 thirty-four cars were completely wired up and fitted with two fuses and two circuit breakers each, the remaining 101 having the wiring done, but having only one fuse each and awaiting the fuse boxes, the delivery of which on order had been delayed. On the report of Mr. Thompson

of that date that it would not be dangerous to run the cars temporarily so equipped, consent to their operation was given.

Inspection was continued from time to time to observe the progress made to complete this equipment and it was found about the middle of June that all of the cars had been fully equipped.

It is gratifying to report that this important improvement was secured by conference and agreement with the Railroad Company without resort to formal proceedings, and to be able to state that the company carried out completely the terms of agreement as made by Mr. Mullen.

Attached hereto is supplementary report of July 30, 1909, by Mr. Wilder, Acting Electrical Engineer, confirming the completion of the work.

(Signed) WM. McCARROLL.
Commissioner.

NEW YORK, August 3, 1909.

Staten Island Rapid Transit Railway Company and Staten Island Railway Company.— Dangerous crossings and defective signals; insufficient shelter after 7 p. m. and lack of toilet accommodations at stations.

Case No. 1076
Complaint Order
Discontinuance Order

This proceeding came up on the complaint of Andrew Powell against the companies alleging that the companies were maintaining dangerous crossings and defective danger signals thereat; that the shelter after 7 p. m. was insufficient and that there was a lack of toilet accommodations at the stations. The Commission, on February 23, 1909, issued a complaint order (see blank form of complaint order, page 7). The Commission issued the following order:

<p>ANDREW POWELL, Complainant. <i>against</i> STATEN ISLAND RAPID TRANSIT RAILWAY COMPANY and the STATEN ISLAND RAIL- WAY COMPANY, Defendant.</p> <p>“Dangerous crossings and defective danger signals thereat; insufficient shelter after 7 p. m. and lack of toilet accommodations at stations.”</p>	<p>Case No. 1076. Discontinuance Order. December 21, 1909.</p>
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Ordered, That the above entitled proceeding be and the same hereby is discontinued without prejudice to an order for hearing and action thereon by the Commission in respect to any of the matters covered by the complaint and answer herein or any proceedings thereon.

Fenders and Wheel Guards.

Street Surface Railroad Companies operating in the Boroughs of Manhattan and The Bronx.— Fenders, wheelguards and safety devices used in connection therewith.

Case No. 1047

Hearing Order

Final Order

Rehearing Order

Extension Order

Final Order after rehear-
ing

Hearing Orders

Resolutions approving
wheelguards as to sev-
eral companies

Resolution disapproving
wheelguards

Rehearing Order

Extension Orders

Resolutions amending
previous Order

Hearing Order

This proceeding was instituted by the Commission to ascertain whether all surface cars operated in the Boroughs of Manhattan and The Bronx were equipped with proper fenders and wheelguards, the kinds of fenders and wheelguards in use, and to determine whether changes, improvements and additions to the fenders and wheelguards and safety devices should be made. The Commission, on January 22, 1909, directed that a hearing be had on February 4, 1909 (see blank form of hearing order, page 9). Hearings were held on February 4th and subsequently until March 2d. Thereafter the Commission issued the following order:

In the Matter
of the

Hearing on the Motion of the Commission on the Question of Improvement in and Addition to the Service and Equipment of the METROPOLITAN STREET RAILWAY COMPANY and ADRIAN H. JOLINE and DOUGLAS ROBINSON, its Receivers; THIRD AVENUE RAILROAD COMPANY and FREDERICK W. WHITRIDGE, its Receiver; FORTY-SECOND STREET, MANHATTANVILLE AND ST. NICHOLAS AVENUE RAILROAD COMPANY and FREDERICK W. WHITRIDGE, its Receiver; DRY DOCK, EAST BROADWAY AND BATTERY RAILROAD COMPANY and FREDERICK W. WHITRIDGE, its Receiver; UNION RAILWAY COMPANY and FREDERICK W. WHITRIDGE, its Receiver; CENTRAL PARK, NORTH AND EAST RIVER RAILROAD COMPANY; SECOND AVENUE RAILROAD COMPANY and GEORGE W. LINCH, its Receiver; 28TH AND 29TH STREETS CROSSTOWN RAILROAD COMPANY and JOSEPH B. MAYER, its Receiver; NEW YORK CITY INTERBOROUGH RAILWAY COMPANY; WESTCHESTER ELECTRIC RAILROAD COMPANY and J. ADDISON YOUNG, its Receiver; SOUTHERN BOULEVARD RAILROAD COMPANY; PELHAM PARK RAILROAD COMPANY; CITY ISLAND RAILROAD COMPANY and KINGSBRIDGE RAILWAY COMPANY in respect to Fenders and Wheelguards and Safety Devices used in connection therewith on surface cars operated in the Boroughs of Manhattan and The Bronx, City of New York.

Case No. 1047,
Final Order.
April 27, 1909.

After a hearing duly held in the above entitled matter before Mr. Commissioner Maltbie on the 4th, 11th and 25th days of February, 1909, and the 2d day of March, 1909,

It is ordered, That the companies and the receivers above named on or before August 1, 1909, equip all their cars in service, except those operated by animal power, with a wheelguard at each end of the car, of a type which shall have been approved by the Public Service Commission for the First District, and that thereafter said companies and said receivers shall not put in service any cars, except those operated by animal power, until they shall have been equipped with wheelguards as aforesaid, and that they maintain all of said wheelguards in a good operating condition; and

It is further ordered, That said companies and said receivers, on or before May 15, 1909, submit to the Public Service Commission for the First District for its approval complete drawings and specifications, showing among other things all measurements and the method of attachment to the car, of the type or types of wheel guards intended or desired to be used by them, in compliance with this order; and

It is further ordered, That this order shall take effect on April 28th, 1909, and shall remain in force until revoked or modified; and

It is further ordered, That within five days after service of a copy of this order upon them, said companies and said receivers notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The Metropolitan Street Railway Company made application on April 27th, for a rehearing as to the terms of the final order, and the Commission, on May 17th, directed that a rehearing (see blank form of hearing order, page 9), be had on May 20th. Hearings were held on May 20th and 24th. Thereafter the Commission issued the following order:

CASE NO. 1047. FINAL ORDER AFTER REHEARING.
(May 25, 1909.)

A final order having been duly made in the above entitled matter on the 27th day of April, 1909, and Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, having made application for a rehearing in respect of certain of the matters determined therein, and the Commission having thereupon made an order on the 17th day of May, 1909, directing that a rehearing in respect of the above named parties applying therefor, be had on the 20th day of May, 1909, and said rehearing having been duly held on that day before Mr. Commissioner Maltbie, Mr. James L. Quackenbush appearing in behalf of said receivers,

It is ordered, That as to said Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, said final order be and the same hereby is amended so as to read as follows:

That said Adrian H. Joline and Douglas Robinson, as receivers of the Metropolitan Street Railway Company, not later than July 15, 1909, equip at least five hundred of their cars in service with wheelguards of a type or types approved by the Commission, and that not later than September 1, 1909, said receivers equip all of their closed cars in service or before being put in service by them with wheelguards of a type or types approved as aforesaid, and that by October 15, 1909, said receivers equip all other cars in service or before being put in service by them with wheelguards of a type or types approved as aforesaid; and

It is further ordered, That said receivers maintain all of said wheelguards in a good operating condition; and

It is further ordered, That said receivers on or before June 5, 1909, submit to the Commission for its approval complete drawings and specifications showing, among other things, all measurements and the method of attachment to the car of the type or types of wheelguards intended or desired to be used by them in compliance with this order; and

It is further ordered, That this order shall take effect on the 25th day of May, 1909, and shall remain in force until revoked or modified; and

It is further ordered, That within five days after service upon them of a copy of this order said receivers notify the Commission whether this order is accepted and will be obeyed.

The Metropolitan Street Railway Company having subsequently submitted and filed with the Commission certain drawings marked, respectively, "George Hipwood," "1909 Parmenter Wheel Guard" "Sterling Wheel Guard No. 7," "Hudson-Bowring Wheel Guard" and "1907 Parmenter Wheel Guard," of wheelguards desired to be used by it and the types of wheelguards shown being deemed suitable, the Commission, on June 11th, adopted a resolution approving said wheelguards and providing that said Hipwood, 1909 Parmenter and Sterling wheelguards be so adjusted that the gate and the apron should be carried normally not more than five (5) inches above the tram rail, and that the distance between the gate and the front of the apron should be not less than thirty-six (36) inches; that said Hudson-Bowring wheelguard be so adjusted that the gate and the apron should be carried normally not more than five (5) and six (6) inches, respectively, above the tram rail, and that the distance between the gate and the front of the apron should be not less than forty (40) inches; and that said 1907 Parmenter wheelguard be so adjusted that the gate and the apron should be carried normally not more than five (5) and three and one-half ($3\frac{1}{2}$) inches respectively above the tram rail, and that the distance between the gate and the front of the apron should be not less than twenty-six (26) inches.

Subsequently, the Metropolitan Street Railway Company made application for an amendment of this resolution approving the types of wheelguards with respect to the type known as "Hudson and Bowring Wheel Guard, June 18, 1909." Thereupon, on August 6th, the Commission adopted a resolution amending the said resolution approving the types of wheelguards, by providing that the wheelguards might be so adjusted that the distance between the gate and the front of the apron shall not be less than thirty-six (36) inches, provided, however, that when the distance between the gate and the front of the apron is less than forty (40) inches then the gate and the apron shall be carried normally not more than five (5) inches above the tram rail; and that said 1907 Parmenter wheelguard be so adjusted that the gate and the apron shall be carried normally not more than five (5) and three and one-

half (3½) inches respectively above the tram rail, and that the distance between the gate and the front of the apron shall not be less than twenty-six (26) inches.

Thereafter, the company having again made application for an amendment of the resolution approving the types of wheelguards, the Commission, on December 10th, adopted the following resolution:

CASE No. 1047, RESOLUTION AMENDING RESOLUTION OF JUNE 11, 1909, AS AMENDED BY RESOLUTION OF AUGUST 6, 1909. METROPOLITAN STREET RAILWAY COMPANY AND ADRIAN H. JOLINE AND DOUGLAS ROBINSON, ITS RECEIVERS.

(December 10, 1909.)

A resolution having been duly passed in the above entitled matter on August 6, 1909, amending a prior resolution passed on June 11, 1909, which approved certain types of wheels intended or desired to be used by the Metropolitan Street Railway Company and Adrian H. Joline and Douglas Robinson, its receivers, and said receivers having made application that said resolution of June 11, 1909, be further amended, it is

Resolved, That said resolution of June 11, 1909, as amended by said resolution of August 6, 1909, be and the same hereby is further amended so as to read as follows:

"A final order having been made on April 27, 1909, directing the companies and the receivers above named to equip all their cars in service except those operated by animal power with wheelguards of a type or types to be approved by the Commission, and not to put in service any such cars until so equipped, and directing said companies and said receivers to submit to the Commission for its approval drawings of the type or types of wheelguards intended or desired to be used by them in compliance with said order, and the Metropolitan Street Railway Company and Adrian H. Joline and Douglas Robinson, its receivers, having in pursuance of such direction submitted and filed with the Commission certain drawings marked respectively "George Hipwood," "1909 Parmenter Wheel Guard," "Sterling Wheel Guard No. 7," "Hudson-Bowring Wheel Guard" and "1907 Parmenter Wheel Guard" of the wheelguards desired to be used by them in compliance with said order; it is

Resolved. That said types of wheelguards so shown on said drawings be and the same hereby are approved, provided, however, that said Hipwood, 1909 Parmenter, 1907 Parmenter and Sterling wheelguards be so adjusted that the gate and the apron shall be carried normally not more than five (5) inches above the tram rail, and that the distance between the gate and the front of the apron shall not be less than thirty-six (36) inches; except that a special apron for the Parmenter wheelguard, the width of said apron being fifteen (15) inches, may be placed upon twenty-five (25) of such service cars, and except further that in the case of sand cars and scraper cars the distance between the gate and the front of the apron shall be as near thirty-six (36) inches as may be practicable and not less in any case than eighteen (18) inches; and provided further that said Hudson-Bowring wheelguard be so adjusted that the gate and the apron shall be carried normally not more than five (5) and six (6) inches respectively above the tram rail, and that the distance between the gate and the front of the apron shall not be less than forty (40) inches; except that said Hudson-Bowring wheelguard may be so adjusted that the distance between the gate and the front of the apron shall not be less than thirty-six (36) inches; provided, however, that when the distance between the gate and the front of the apron is less than

forty (40) inches then the gate and the apron shall be carried normally not more than five (5) inches above the tram rail. And it is further

Resolved, That snow sweepers and the derrick car of said receivers need not be equipped with wheelguards."

The Central Park, North and East River Railroad Company and the Second Avenue Railroad Company having submitted to the Commission certain drawings and specifications of the wheelguards desired to be used by each of said companies respectively under the final order herein, the Commission, on May 25th, directed (see blank form of hearing order, page 9) that a hearing be had on June 1st, to determine whether the drawings so submitted should be approved by the Commission. Hearings were held on June 1st and subsequently until June 14. Thereafter the Commission, on June 18th, adopted a resolution disapproving the type of wheelguard submitted by the companies and known as the "Sterling Pilot Wheel Guard."

OPINION OF THE COMMISSION.

(June 25, 1909.)

COMMISSIONER MALTBIE:—

Upon April 27, 1909, the Commission adopted an order requiring the companies operating street surface lines in the Boroughs of Manhattan and The Bronx to equip all of the cars operated, except those drawn by horses, with such types of wheelguards as shall have been submitted to and approved by the Commission. In accordance with this order, the Central Park, North and East River Railroad Company and the receiver of the Second Avenue Railroad Company submitted for approval the wheelguard which has been in use upon the lines in Manhattan and The Bronx for several years, ordinarily known as "The Sterling Pilot Fender," but more accurately a wheelguard. None of the other lines in the greater city submitted this type, all of them apparently having concluded that it was inefficient or less efficient than other types.

In view of the many cases in which this pilot wheelguard has not prevented persons from being severely injured or killed, in view of the large sums paid out for damages and claims, and in view of the fact that all other lines have substituted other types for the type in question, it would seem that there was a *prima facie* case against its continuance. However, in order that the Commission might have before it all of the facts which could be obtained either by the companies or by the Commission, an order for a hearing was issued upon the type submitted, and the hearings were duly held.

It was generally admitted by the witnesses for the companies that the wheelguards had not been kept in effective operating condition by the companies prior to the appointment of receivers; but the receiver of the Second Avenue Company maintained that it would be possible to do so, and that, as a matter of fact, he had been properly maintaining them for some time. He

stated in considerable detail what was being done, and insisted that nothing more was needed or could reasonably be expected. His employees were instructed, he said, so to install the wheelguards that the projecting point of the wheelguard, ordinarily called the nose, would be $2\frac{1}{2}$ inches above the slot rail. When asked why they were not lower, he replied that the condition of the roadbed would not permit it, although their efficiency would be increased by so adjusting them.

One of the engineers of the Commission was instructed to examine all cars of the Second Avenue Company passing a given point for a short period, and to record the exact condition of the front wheelguard. The report of the engineer was placed in evidence and covered a period of three hours upon May 28. During that time 40 different cars, southbound, were examined, and the test was stopped because the cars had begun to repeat and no new ones were appearing upon the line. Of the 40 different wheelguards examined, six (15 per cent) were found to have a nose clearance of one inch or less, and all of these, with one exception, were found to be bent or loose. These facts support the contention of the receiver and of Mr. Mc-Limont, to which reference will later be made, that it is impracticable to attempt to operate a fixed wheelguard with one inch clearance, in view of the condition of the track and pavement. Nearly 50 per cent of the wheelguards were found to have a nose clearance of 3 inches or more, and one-third of these had a clearance of 4 inches or more. In other words, very few were within $\frac{1}{2}$ inch from the standard, and 60 per cent were reported as being bent, worn or loose. As one of the witnesses for the companies admitted that a person or child might pass under the wheelguard if it were three or more inches above the rail, it is evident that almost one-half of the wheelguards were not in effective condition to save life. Still others were so bent or loose as to make it easy for a child to pass under, although carried less than three inches from the rail.

Of these 40 cars, 38 were inspected by an employee of the receiver two weeks after the inspection by the engineer of the Commission, a copy of the latter's report having been supplied to him. He found 11 (30 per cent) had a nose clearance of three inches or more, and nine were bent or loose. These are important facts, for they show that even with such care as the receiver had given them (and he stated he could not reasonably be expected to do more) it was impossible to keep them in effective operating condition as life-saving devices.

At this point the question naturally arises: Is the type an improper one or does it fail because it is not maintained properly? The pilot wheelguard under consideration is a V-shaped metal frame, faced in part with rubber, the center point of which projects beyond the sides and shaped somewhat like a steam locomotive pilot. It is designed to sheer the object to one side or to push it along. Occasionally, the object will pass up on top of the guard, but it is not planned or so constructed as normally to lift the object off of the pavement. Being rather blunt (the angle at the nose not being acute), the guard does not sheer off the object rapidly, and it is often shoved along over the pavement for some distance before it is clear of the track. If the clothing of a person or an arm or a limb passes under the wheelguard, it interferes with the sheering effect; and when this happens it is probable that the wheelguard will be forced up and go over the person

instead of sheering him to one side, causing a serious injury or death. It is generally admitted that the less the distance between guard and pavement, the more likely the device is to work as intended; the greater the distance, the more likely it is to allow a person to go under and be killed.

Mr. McLimont, formerly the electrical engineer of the Commission and now general manager of a large railway system in Illinois, testified that non-automatic, sheering wheelguards (the one under consideration belongs to this class) must be carried at a height above the track of not more than one inch in order to be effective.

The receiver of the Second Avenue Railroad Company maintained that the condition of the paving and track made it impracticable to operate with less than two and one-half inches as a standard, and it is generally admitted, that one inch clearance is out of the question.

Reference was made in the hearings to a non-automatic, sheering wheelguard used in Liverpool which was very efficient. I have observed this device personally and it differed very greatly from the one under consideration. The Liverpool guard was stronger, higher, carried very close to the rails (this was made possible by the excellent condition of the paving and track) and had such an acute angle at the nose that the sheering effect was much greater and the possibility of being forced up by the object very slight. Yet even this wheelguard has not been adopted to any extent outside of Liverpool, because it is generally believed in Great Britain that other devices are more efficient under ordinary conditions.

The facts and evidence seem to prove, in conclusion, that it is impossible to maintain the pilot wheelguard now being considered at a height of one inch from the rails under existing conditions in New York, that such conditions render necessary a clearance of at least two and one-half inches on the lines under consideration, that even when special attention is given to maintenance there will be frequent cases where the guard will not be in a condition to save life or to prevent serious injury, and that persons and particularly children have passed under the guard and were killed. Out of twenty-three accidents since August 5, 1907, in which pilot wheelguards were involved, fifteen were fatal. In forty-one other cases where it is *believed* this wheelguard was involved, there were ten fatalities.

The automatic-trip wheelguard, upon the other hand—a type manufactured by many companies and of which there are many varieties—can be carried normally four or five inches above the rails, out of the way of all ordinary obstructions, thus requiring little attention or expense for maintenance. When the trip is struck by the person upon the track, the apron is released and forced to the pavement by a spring. The edge of the apron passes under the body, picking it up and carrying it along until the car is stopped. This type is in use in hundreds of cities and is being introduced by several companies in this city. Experience has proved its efficiency and practicability as a type. Of course special features may need to be devised to adapt it to New York conditions. Several objections were urged at the hearings, but one of the witnesses showed how these were to be met by new devices. It was stated that such guards would be constantly tripped and otherwise interfered with by snow and ice in winter, but if a guard carried four or five inches will be affected by snow and ice, certainly one only two or three

inches above the rails will be. Naturally, the Commission has not taken the stand that only one type, although manufactured in many varieties and by many companies, will be approved by it; but as it has approved several designs of the automatic trip type, and as it is believed that this type is much more efficient than the pilot wheelguard submitted for action in this case, the latter design has been disapproved.

The Commission is of the opinion that nothing is more important than the saving of human life, and that no street railway company can justify its action in equipping its cars with any but the most efficient designs. It may be added that the total expense to the two companies under consideration, made necessary by the installation of improved wheelguards throughout, would be about \$4,000 immediately and less than \$10,000 ultimately. Even from a financial point of view, the saving of one life would more than offset the cost of the entire installation.

The Central Park, North and East River Railroad Company having submitted to the Commission a certain drawing marked "T. J. Wheel Guard" of the wheelguard desired to be used by it, in compliance with said order, the Commission on August 6th, adopted a resolution approving this type of wheelguard on condition that it be so adjusted that the gate and apron should be carried normally not more than five (5) inches above the tram rail, and that the distance between the gate and the front of the apron should be not less than thirty-six (36) inches. The company having also made an application for an extension of time within which to comply with the terms of the final order, the Commission, on August 6th, extended (see blank form of extension order, page 8) such time to August 25th.

The Second Avenue Railroad Company having submitted to the Commission two certain drawings marked respectively "Engineering and Combustion Co. July 24, 1909," and "Engineering and Combustion Co. July 26, 1909," of the wheelguard desired to be used by them, the Commission, on August 6th, adopted a resolution approving such type of wheelguard subject to the same conditions as in the case of the Central Park, North and East River Railroad Company indicated above. The company having made applications for extensions of time to comply with the terms of the final order herein, the Commission on August 6th, extended the time of the company to September 1st, and on September 14th extended the time to October 10th.

The Third Avenue Railroad Company having submitted to the Commission a certain drawing, Marked "The 'H B' Life Guard," of the wheelguards desired to be used by it, the Commission, on

June 11th, adopted a resolution approving such type of wheelguard with the same provision, regarding adjustment, as in the case of the Central Park, North and East River Railroad Company.

The Westchester Electric Railroad Company having submitted to the Commission certain drawings, marked "The 'H B' Life Guard" and "Parmenter Wheel Guard for Double Truck Cars," of the wheelguards desired to be used by them, the Commission, on June 11th, adopted a resolution approving such types of wheelguards, provided the "H B Life Guard" be so adjusted that the gate and the apron should be carried normally not more than five inches above the tram rail and that the distance between the gate and the front of the apron should be not less than thirty-eight inches and that the "Parmenter Wheel Guard for Double Truck Cars" be so adjusted that the gate and the apron should be normally carried not more than five and four and one-half inches respectively above the tram rail and that the distance between the gate and the front of the apron should not be less than thirty-four inches.

The New York City Interborough Railway Company having made application for an extension of time within which to comply with paragraph 2 of the final order, the Commission, on May 18th, extended the time of the company to May 25th. The company having submitted and filed with the Commission a certain drawing, marked "The 'H B' Wheel Guard," of the wheelguards desired to be used by said company, the Commission, on June 11th, adopted a resolution approving such type of wheelguard, provided said wheelguard should be so adjusted that the gate and the apron should be carried normally not more than five (5) and six (6) inches, respectively, above the tram rail, and that the distance between the gate and the front of the apron should not be more than forty inches.

The said company having made application for an extension of time within which to equip its cars with the type of wheelguard so approved, the Commission, on August 6th, extended the time of the company within which to so equip its cars to August 23d. The company having made application that the resolution approving the type of wheelguard intended to be used by it be amended, the Commission, on August 6th, adopted a resolution amending said

resolution approving the type of wheelguard by providing that the wheelguard might be so adjusted that the distance between the gate and the front of the apron should not be more than thirty-six inches, in which event, however, the gate and the apron should be carried normally not more than five (5) inches above the tram rail. The company having subsequently made further application for a modification of the resolution, the Commission, on September 24th, directed (see blank form of hearing order, page 9) that a hearing be had on October 5th, to determine whether the resolution adopted August 6th should be abrogated, changed or modified. A hearing was held on October 5th. Thereafter the Commission, on October 13th, adopted a resolution amending the former resolutions approving the type of wheelguards by providing that the type of wheelguards be approved, provided, however, that said wheelguards be so adjusted that the gate and the apron should be carried normally not more than six (6) and five (5) inches, respectively, above the tram rail and that the distance between the gate and the front of the apron should not be less than forty (40) inches except that in respect of fifteen (15) of said company's cars the distance between the gate and the front of the apron might be less than forty (40) inches, provided said wheelguards can not be otherwise adjusted, said distance to be as near forty inches as possible and in no event less than thirty-two (32) inches.

Street Surface Railroad Companies operating in the Boroughs of Brooklyn and Queens.— Fenders, wheelguards and safety devices used in connection therewith.

Case No. 1048

Hearing Order

Final Order

Rehearing Orders

Final Order after rehearing

Resolutions approving wheelguards as to several companies

Order amending Final Order

This proceeding was instituted by the Commission to ascertain whether all surface cars operated in the Borough of Brooklyn

were equipped with proper fenders and wheelguards, the kinds of fenders and wheelguards in use, and to determine whether changes, improvements and additions to the fenders and wheelguards and safety devices should be made. The Commission, on January 22, 1909, directed that a hearing be had on February 4th (see blank form of hearing order, page 9). Hearings were held on February 4th and subsequently until March 1st. Thereafter, the Commission issued the following order:

In the Matter
of the

Hearing on the Motion of the Commission on the Question of Improvement in and Addition to the Service and Equipment of the BROOKLYN HEIGHTS RAILROAD COMPANY; BROOKLYN, QUEENS COUNTY AND SUBURBAN RAILROAD COMPANY; SOUTH BROOKLYN RAILWAY COMPANY; BROOKLYN UNION ELEVATED RAILROAD COMPANY; NASSAU ELECTRIC RAILROAD COMPANY; SEA BEACH RAILWAY COMPANY; CONEY ISLAND AND GRAVESEND RAILWAY COMPANY; CONEY ISLAND AND BROOKLYN RAILROAD COMPANY; VAN BRUNT STREET AND ERIE BASIN RAILROAD COMPANY; BUSH TERMINAL RAILROAD COMPANY; NEW YORK AND QUEENS COUNTY RAILWAY COMPANY; LONG ISLAND ELECTRIC RAILWAY COMPANY; NEW YORK AND LONG ISLAND TRACTION COMPANY, and OCEAN ELECTRIC RAILWAY COMPANY, in respect to Fenders and Wheelguards and Safety Devices used in connection therewith on surface cars operated in the Boroughs of Brooklyn and Queens, City of New York.

Case No. 1048,
Final Order.
April 27, 1909.

After a hearing duly held in the above entitled matter before Mr. Commissioner Maltbie on the 4th and 11th days of February, 1909, and on the 1st day of March, 1909, it is

Ordered, That the companies above named, or or before July 1, 1909, equip all their cars in service, except those operated by animal power, with a fender at each end of the car, of a type which shall have been approved by the Public Service Commission for the First District, and that thereafter said companies shall not put in service any cars, except those operated by animal power, until they shall have been equipped with fenders as aforesaid, and that said companies maintain all of said fenders in a good operating condition; and

It is further ordered, That said companies, on or before May 15, 1909, submit to the Public Service Commission for the First District, for its approval, complete drawings and specifications, showing among other things all measurements and the method of attachment to the car, of the type or types of fenders intended or desired to be used by them in compliance with this order; and

It is further ordered, That this order shall take effect on April 28, 1909, and shall remain in force until revoked or modified; and

It is further ordered, That within five days after service of a copy of this order upon them, said companies notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The following companies made application for a rehearing in respect to certain of the matters contained in the final order:

South Brooklyn Railway Company;
Nassau Electric Railroad Company;
Sea Beach Railway Company;
Brooklyn, Queens County and Suburban Railroad Company;
Coney Island and Gravesend Railway Company;
Brooklyn Heights Railroad Company;
Brooklyn Union Elevated Railroad Company.

Whereupon the Commission, on May 4th, issued an order directing (see blank form of hearing order, page 9) that a rehearing be had on May 7th.

The Coney Island and Brooklyn Railroad Company made application for a rehearing in respect to certain of the matters contained in the final order. The Commission, on May 6th, directed that a rehearing be had on May 7th.

A hearing was held in both of the above matters on May 7th. Thereafter the Commission issued the following order:

CASE No. 1049, FINAL ORDER AFTER REHEARING.
(May 14, 1909.)

A final order having been duly made in the above entitled matter on the 28th day of April, 1909, and South Brooklyn Railway Company, Nassau Electric Railroad Company, Sea Beach Railway Company, Brooklyn, Queens County and Suburban Railroad Company, Coney Island and Gravesend Railway Company, Brooklyn Heights Railroad Company and Brooklyn Union Elevated Railroad Company being parties interested in said order, having severally made application for a rehearing in respect of certain of the matters determined therein, and the Commission having thereupon made an order on the 4th day of May, 1909, directing that a rehearing in respect of the above named parties applying therefor be had on the 7th day of May, 1909, at three o'clock in the afternoon, and the Coney Island and Brooklyn Railroad Company, being a party interested in said final order, having also made application for a rehearing in respect of certain matters determined therein, and the Commission thereupon having made an order on the 6th day of May, 1909, directing that a rehearing in respect of the party last above named applying therefor be had on the 7th day of May, 1909, at three o'clock in the afternoon, and said rehearing having been duly held before Mr. Commissioner Maltbie on the 7th day of May, 1909, Mr. W. S. Menden appearing in behalf of the South Brooklyn Railway Company, Nassau Electric Railroad Company, Sea Beach Railway Company, Brooklyn, Queens County and Suburban Railroad Company, Coney Island and Gravesend Railway Company, Brooklyn Heights Railroad Company and Brooklyn Union Elevated Railroad Company, and Messrs. Dykman, Oeland and Kuhn appearing for said Coney Island and Brooklyn Railroad Company,

It is ordered, That as to said South Brooklyn Railway Company, Nassau Electric Railroad Company, Sea Beach Railway Company, Brooklyn, Queens County and Suburban Railroad Company, Coney Island and Gravesend Railway

Company, Brooklyn Heights Railroad Company, Brooklyn Union Elevated Railroad Company and Coney Island and Brooklyn Railroad Company said final order be and the same hereby is amended so as to read as follows:

Ordered, That said South Brooklyn Railway Company, Nassau Electric Railroad Company, Sea Beach Railway Company, Brooklyn, Queens County and Suburban Railroad Company, Coney Island and Gravesend Railway Company, Brooklyn Heights Railroad Company, Brooklyn Union Elevated Railroad Company and Coney Island and Brooklyn Railroad Company, on or before July 15th, 1909, equip all their cars in service, except those operated by animal power or cable and except trailers and except such cars as are equipped with electrical devices for operation by electricity obtained through third rail, and are regularly so operated upon a portion or all of their routes, with a fender at the forward end of each car, such fender to be of a type which shall have been approved by the Public Service Commission for the First District, and that thereafter said last mentioned companies shall not put in service any cars or trains, except those exempted as aforesaid, until they shall have been so equipped with fenders as aforesaid; and

It is further ordered, That said last mentioned companies maintain all of said fenders in good operating condition; and

It is further ordered, That said last mentioned companies on or before May 25, 1909, submit to the Public Service Commission for the First District for its approval, complete drawings and specifications showing among other things all measurements and the method of attachment to the car, of the type or types of fenders intended or desired to be used by them in compliance with this order; and

It is further ordered, That this order shall take effect on the 15th day of May, 1909, and shall remain in force until revoked or modified; and

It is further ordered, That within five days after service upon it of a copy of this order each of said last mentioned companies notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The Long Island Electric Railway Company having, in pursuance of the final order, submitted a certain drawing, marked "Platform-Tripping and Re-setting Device," of the fenders desired to be used by it in compliance with said order, the Commission, on June 11th, adopted a resolution approving said type of fenders, provided that the apron of said fenders should be at least thirty inches wide and said fenders should be so adjusted that the apron shall be carried normally not more than six inches above the tram rail, and further directing the company to equip all of its cars with fenders as provided, not later than November 1, 1909.

The New York and Long Island Traction Company having submitted a drawing of the same type of fenders, the Commission, on June 11th, adopted a resolution approving such type of fenders subject to the same conditions, and directing the company to equip all its cars with such fender not later than November 1, 1909.

The New York and Queens County Railway Company having submitted a drawing of the same type of fenders, the Commission, on June 11th, adopted a resolution approving such type of fenders subject to the same conditions, except that the aprons of the fenders

attached or to be attached to fifty certain steel cars should be at least twenty-eight inches wide and be carried normally not more than six inches above the tram rail, and directing the company to equip its cars accordingly not later than November 1, 1909.

The Ocean Electric Railway Company having, in pursuance of the final order, submitted a certain drawing marked "Consolidated Car Fender," the Commission, on June 18th, adopted a resolution approving such type of fender, provided the apron should be carried normally not more than six inches above the tram rail.

The Van Brunt Street and Erie Basin Railroad Company having, in pursuance of the final order, submitted a certain drawing, marked "Fender Equipment," the Commission, on June 11th, adopted a resolution approving such type of fender with the provision that the front of the apron should be carried normally not more than six inches above the tram rail.

On the original hearing, the matter of the equipment by certain companies with wheelguards and fenders was held in abeyance for the purpose of permitting of further experimentation with wheelguards on the lines of the companies. On November 26th the Commission wrote the following companies that the hearing would be reopened on December 1st:

- Brooklyn Heights Railroad Company;
- Brooklyn, Queens County and Suburban Railroad Company;
- Coney Island and Brooklyn Railroad Company;
- Coney Island and Gravesend Railway Company;
- Nassau Electric Railroad Company;
- Sea Beach Railway Company;
- South Brooklyn Railway Company.

A hearing was held on December 1st. The Commission issued the following order:

CASE NO. 1048, ORDER RESPECTING WHEELGUARDS WHICH ALSO AMENDS, AS TO CERTAIN COMPANIES, ORDER OF APRIL 27, 1909, AS AMENDED BY ORDER OF MAY 14, 1909.

(December 24, 1909.)

An order, in respect of fenders, having been duly made in this case on April 27, 1909, after a hearing duly had in respect of fenders and wheelguards, and on May 14, 1909, an order having been duly made after a rehearing, amending said order of April 27, 1909, and on application of the Brooklyn Heights Railroad Company, Brooklyn, Queens County and Suburban Railroad Company, South Brooklyn Railway Company, Nassau Electric Railroad Company, Sea Beach Railway Company, Coney Island and Gravesend Railway Company and Coney Island and Brooklyn Railroad Company, a further hearing having been duly held, in respect of fenders and wheelguards, before Commissioner Maltbie on December 1, 1909, Mr. W. S. Menden representing said Brooklyn Heights Railroad Company, said Brooklyn, Queens County and

Suburban Railroad Company, said South Brooklyn Railway Company, said Nassau Electric Railroad Company, said Sea Beach Railway Company and said Coney Island and Gravesend Railway Company, and Mr. W. S. Huff, representing said Coney Island and Brooklyn Railroad Company, appearing, and Mr. Henry H. Whitman, Assistant Counsel to the Commission, attending, it is

Ordered, (1) That said Coney Island and Gravesend Railway Company, said Sea Beach Railway Company and said South Brooklyn Railway Company, on or before February 1, 1910, equip all cars operated by them with wheelguards of a type or types to be approved by the Commission, and shall not thereafter operate any cars unless equipped with such wheelguards in a good operating condition.

(2) That said Coney Island and Brooklyn Railroad Company and said Brooklyn, Queens County and Suburban Railroad Company, and each of them, equip all cars operated by them with wheelguards, of a type or types to be approved by the Commission, at the rate of not fewer than twenty cars a month, beginning February 1, 1910, until all of their cars shall have been so equipped, and shall not thereafter operate any cars unless equipped with such wheelguards in a good operating condition.

(3) That said Nassau Electric Railroad Company equip all cars operated by it with wheelguards of a type or types to be approved by the Commission at the rate of not fewer than sixty cars a month, beginning February 1, 1910, until all of its cars shall have been so equipped and shall not thereafter operate any cars unless equipped with such wheelguards in a good operating condition.

(4) That the Brooklyn Heights Railroad Company equip all cars operated by it with wheelguards of a type or types to be approved by the Commission at the rate of not fewer than one hundred and twenty cars a month, beginning February 1, 1910, until all of its cars shall have been so equipped and shall not thereafter operate any cars unless equipped with such wheelguards in a good operating condition.

(5) That as soon as said Brooklyn Heights Railroad Company, or any other of said companies, shall have equipped with such wheelguards cars operated exclusively over the Brooklyn Bridge, or exclusively over the Williamsburg Bridge, said company or companies shall be relieved hereby from equipping said cars with fenders.

(6) That as soon as said Brooklyn, Queens County and Suburban Railroad Company, or any of said companies above mentioned, shall have equipped with such wheelguards the cars operated exclusively on what is known as the Broadway Shuttle line, on Broadway between Havemeyer Street and Broadway Ferry, they shall be relieved hereby from equipping said cars with fenders.

(7) That as soon as said companies above mentioned shall have equipped with such wheelguards the cars operated by them on the following streets, to wit, Fulton Street (from Greene Avenue to Tillary Street), Flatbush Avenue (from Fifth Avenue to Fulton Street), Broadway (west of Ralph Avenue), Livingston Street (from Flatbush Avenue to Court Street), Washington Street and Adams Street, then said companies shall have the right hereby to fold up fenders on cars when passing over said streets within the limits mentioned and be relieved from equipping with fenders cars operated exclusively over said streets within said limits.

(8) That, except as hereinbefore expressly provided, all cars owned or operated by any of the companies hereinbefore mentioned, when equipped with such wheelguards, shall so carry the fenders that no part thereof shall be less than ten inches clear above the rails, and that the front edge of the apron shall not be more than fourteen inches clear above the rails.

(9) That all of said companies hereinbefore mentioned, on or before the 10th day of January, 1910, submit to the Commission for its approval complete drawings and specifications showing among other things all measurements and the method of attachment to the car of the type or types of wheelguards desired to be used by them in compliance with this order; and it is further

Ordered, that except as expressly amended by this order, which applies to said companies hereinabove mentioned exclusively, said order of April 28,

1909, as amended by said order of May 14, 1909, shall be and remain in full force and effect; and it is further

Ordered, That this order shall take effect on the 24th day of December, 1909, and shall remain in force until revoked or modified.

Staten Island Midland Railway Company and Richmond Light and Railroad Company.— Fenders, wheelguards and safety devices used in connection with surface cars operated in the Borough of Richmond.

Case No. 1049

Hearing Order

Final Order

Extension Order

Resolution approving wheelguard and fenders

Order modifying Final Order

Extension Order

Resolution amending resolution approving wheelguard and fenders

This proceeding was instituted by the Commission to ascertain whether all surface cars operated in the Borough of Richmond were equipped with proper fenders and wheelguards, the kinds of fenders and wheelguards in use, and to determine whether changes, improvements and additions to the fenders and wheelguards and safety devices should be made. The Commission, on January 22, 1909, directed that a hearing be had on February 5th (see blank form of hearing order, page 9). A hearing was had on said date. Thereafter, the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service and Equipment of the STATEN ISLAND
MIDLAND RAILWAY COMPANY and RICH-
MOND LIGHT AND RAILROAD COMPANY, in
respect to Fenders and Wheelguards and Safety
Devices used in connection therewith on surface
cars operated in the Borough of Richmond, City
of New York.

Case No. 1049,
Final Order.
April 27, 1909.

After a hearing duly held in the above entitled matter before Mr. Commissioner Maltbie on the 5th day of February, 1909.

It is ordered, That the companies above named, or or before July 15, 1909, equip all their cars in service, except those operated by animal power, with a fender and a wheelguard at each end of the car, of a type which shall have

been approved by the Public Service Commission for the First District, and that thereafter said companies shall not put in service any cars except those operated by animal power until they shall have been equipped with fenders and wheelguards as aforesaid, and that they maintain all of said fenders and wheelguards in a good operating condition;

And it is further ordered, That said companies on or before May 15, 1909, submit to the Public Service Commission for the First District for its approval complete drawings and specifications, showing among other things all measurements and the method of attachment to the car, of the type or types of wheelguards and of fenders intended or desired to be used by them in compliance with this order;

And it is further ordered, That this order shall take effect April 28, 1909, and shall remain in force until revoked or modified;

And it is further ordered, That within five days after service of a copy of this order upon them, said companies notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The companies having made application for an extension of time within which to comply with paragraph 2 of said final order, the Commission, on May 21st, extended (see blank form of extension order, page 8) their time to June 1st.

The Staten Island Midland Railway Company and the Richmond Light and Railroad Company having, in pursuance to the final order, submitted to the Commission certain drawings, marked respectively "The Sterling Wheel Guard No. 3," "The Sterling Wheel Guard No. 7," and "Hudson & Bowring Patent Life Guard," of the wheelguards desired to be used by them in compliance with said order and a certain drawing marked "Consolidated Car Fender Type A" of the fender desired to be used by them in compliance with said order, the Commission, on June 11th, adopted a resolution approving the types of wheelguards, provided they be so adjusted that the gate and the apron shall be carried normally not more than five inches above the tram rail and that the distance between the gate and the front of the apron shall not be less than thirty-six inches, and approving the type of fender so shown on said last mentioned drawing, provided that the apron of the fender shall be at least thirty-six inches wide and the front of the apron shall be carried normally not more than six inches above the tram rail.

The Commission also, on June 11th, issued the following order:

CASE NO. 1049, ORDER MODIFYING FINAL ORDER.
(June 11, 1909.)

A final order having been made on April 27, 1909, directing the companies above named to equip all their cars in service, except those operated by animal power, with fenders and wheelguards of a type or types to be approved by the Commission, and not to put in service any such cars until so equipped,

It is ordered. That said companies shall, not later than July 15, 1909, equip not fewer than forty (40) of their cars in service with such fenders and wheelguards, and shall, not later than August 15, 1909, so equip not fewer than one hundred (100) more of their cars in service, and shall, not later than September 15, 1908, or before being put into service, so equip all their cars.

The companies having made application for an extension of time within which to comply with the order requiring the equipment of their cars with fenders and wheelguards, the Commission, on September 17th, extended their time to October 1, 1909.

Thereafter, the Commission issued the following order:

CASE No. 1049, RESOLUTION AMENDING RESOLUTION OF JUNE 11, 1909.

(December 10, 1909.)

A resolution having been duly passed in the above entitled matter on June 11, 1909, which, among other things, approved a certain type of wheelguard intended or desired to be used by the companies above named and the Richmond Light and Railroad Company having made application that said resolution be amended, it is

Resolved, That said resolution of June 11, 1909, be and the same hereby is amended so as to read as follows:

"A final order having been made on April 27, 1909, directing the companies above named to equip all their cars in service, except those operated by animal power, with fenders and wheelguards of a type or types to be approved by the Commission, and not to put in service any such cars until so equipped, and directing said companies to submit to the Commission for its approval drawings of the type or types of wheelguards and of fenders intended or desired to be used by them in compliance with said order, and said companies having in pursuance of such direction submitted and filed with the Commission certain drawings, marked respectively 'The Sterling Wheel Guard No. 3,' 'The Sterling Wheel Guard No. 7' and 'Hudson & Bowring Patent Life Guard,' of the wheelguards desired to be used by them in compliance with said order, and a certain drawing marked 'Consolidated Car Fender Type A' of the fender desired to be used by them in compliance with said order, it is

Resolved, That said types of wheelguards so shown on said drawings be and the same hereby are approved, provided, however, that said wheelguards be so adjusted that the gate shall be carried normally not more than six (6) inches above the tram rail, and that the apron shall be carried normally not more than five (5) inches above the tram rail, and that the distance between the gate and the front of the apron shall not be less than thirty-six (36) inches; and it is further

Resolved, That the type of fender so shown on said last mentioned drawing be and the same hereby is approved, provided, however, that the apron of the fender shall be at least thirty-six (36) inches wide, and the front of the apron shall be carried normally not more than six (6) inches above the tram rail."

Yonkers Railroad Company.— Fenders and wheelguards.

Case No. 1171

Hearing Order

Final Order

This proceeding was begun on motion of the Commission to determine whether the company should be ordered to equip its cars

with wheelguards and fenders of types to be approved by the Commission. The Commission, on October 15, 1909, directed that a hearing be had on October 25th (see blank form of hearing order, page 9). A hearing was had on October 25th. Thereafter, the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service and Equipment of YONKERS RAIL-
ROAD COMPANY and LESLIE SUTHERLAND,
its Receiver, in respect to Fenders and Wheel-
guards and Safety Devices used in connection
therewith on Surface Cars operated in the
Borough of The Bronx, City of New York.

Case No. 1171,
Final Order.
October 29, 1909.

The Commission being of opinion after a hearing on its own motion, duly held before Mr. Commissioner Maltbie on October 25, 1909, present, Leverett F. Crumb, Esq., Counsel for said Leslie Sutherland, Receiver of said Yonkers Railroad Company, that the regulations, practices, equipment and appliances of said Company and said Receiver in respect of the transportation of persons or property in the First District are unreasonable, unsafe, improper and inadequate in that the cars of said Company are not equipped and operated with suitable fenders and wheelguards,

It is ordered, That said Company and said Receiver and each of them on or before the 30th day of November, 1909, equip all of their cars which are operated within the Borough of The Bronx, in the City of New York, with fenders and wheelguards of a type or types to be approved by the Public Service Commission for the First District and that after said 30th day of November, 1909, said Company and its said Receiver shall not operate any cars within the said Borough of The Bronx except such as are thus equipped;

And it is further ordered, That said Company and said Receiver and each of them on or before the 8th day of November, 1909, submit to the Public Service Commission for the First District for its approval the type or types of wheelguards and fenders intended or desired to be used by them in compliance with this order;

And it is further ordered, That this order shall take effect on October 30, 1909, and shall remain in force until revoked or modified;

And it is further ordered, That within ten days after service upon it of a copy of this order said Yonkers Railroad Company and said Leslie Sutherland, Receiver, notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

**South Shore Traction Company.— Wheelguards and safety
devices.**

Case No. 1184

Hearing Order
Final Order

This proceeding was begun on motion of the Commission to ascertain whether the cars operated by the company were equipped

with proper wheelguards and safety devices and to determine whether changes, improvements and additions thereto should be made. The Commission, on December 7, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on December 16th. A hearing was held on that date. Thereafter, the Commission issued the following order:

<p>In the Matter of the Hearing on the Motion of the Commission on the Question of Improvement in and Addition to the Service and Equipment of the SOUTH SHORE TRACTION COMPANY in Respect to Wheel- guards and Safety Devices Used in Connection Therewith on Surface Cars Operated by it in the City of New York.</p>	<p>Case No. 1184, Final Order. December 24, 1909.</p>
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After a hearing duly held in this case on December 16, 1909, before Mr. Commissioner Maltbie, present Mr. Harold B. Weaver, representing the South Shore Traction Company, and Mr. Henry H. Whitman, Assistant Counsel to the Commission, it is

Ordered, That said South Shore Traction Company on or before February 1, 1910, equip all of its cars in service with wheelguards of a type or types to be approved by the Commission and that thereafter said Company shall not put in service any cars unless equipped with such wheelguards in a good operating condition; and it is further

Ordered, That said Company, on or before January 5, 1910, submit to the Commission for its approval complete drawings and specifications, showing, among other things, all measurements and the method of attachment to the car, of the type or types of wheelguards desired to be used by it in compliance with this order; and it is further

Ordered, That this order shall take effect on December 24, 1909, and shall continue in force until revoked or modified.

Matters Relating Mainly to Number of Cars Operated.

Brooklyn Heights Railroad Company.—Service on Williamsburg Bridge — Bridge local cars.

<p>In the Matter of the Hearing on Motion of the Commission on the Question of Improvement in and Additions to the Service of the BROOKLYN HEIGHTS RAIL- ROAD COMPANY.</p>	<p>Hearing Order, Case No. 723, as to Com- pliance with Final Order No. 706. January 22, 1909.</p>
<p>Service on Williamsburg Bridge — Bridge Local Cars.</p>	

It is ordered, That a hearing be had on the 20th day of January, 1909, at 2:30 o'clock in the afternoon, or at any time or times to which the same may be adjourned, at the rooms of the Commission, No. 154 Nassau Street, in the

Borough of Manhattan, City and State of New York, on the question of the compliance by the Brooklyn Heights Railroad Company with the terms of Final Order No. 706, adopted by the Commission August 28, 1908.

Hearings were held on January 29 and February 5, 1909.

Brooklyn Heights Railroad Company.—Increase in number of cars operated on Flushing Avenue line.

Case No. 1069

Hearing Order

Opinion of the Commission

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued February 19, 1909, setting March 2d for a hearing. Hearings were held March 2d, 10th and 17th.

OPINION OF THE COMMISSION.

(Adopted May 28, 1909.)

COMMISSIONER BASSETT: —

The proceeding herein was begun on motion of the Commission after inspections by the transit bureau showed the service to be inadequate. Hearings were held in this case and in three other cases at the same time as the evidence was to some extent applicable to each case. The operation of this line with two of the other lines is intricate, and any order that might be formulated was considered to be less effectual than a continued supervision of the line.

The service on this line has been slightly increased and with the use of an additional crossover switch which the company has agreed to install near the Brooklyn end of the bridge, it will be possible to establish a short line for some of the cars and the service will be further improved. In view of the improvements which have been provided for, it is, in my opinion, proper that the proceeding should be discontinued.

Thereupon the following order was issued:

<p style="text-align: center;">In the Matter of the Hearing on the Motion of the Commission on the Question of Service of the BROOKLYN HEIGHTS RAILROAD COMPANY in Respect to the Num- ber of Cars on the Flushing Avenue Line.</p>	<p>Case No. 1069, Order of Discontinuance. May 28, 1909.</p>
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An order known as Hearing Order Case No. 1069, having been duly made by the Commission on February 19, 1909, on its own motion, on the question of service of the Brooklyn Heights Railroad Company on the Flushing Avenue line, and said hearing having been duly had on March 2, 1909, March 10, 1909, and March 17, 1909, before Mr. Commissioner Bassett, presiding. Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Arthur

N. Dutton, Esq., appearing for the railroad company, and the opinion of Commissioner Bassett being filed herewith and hereby approved,

Now, therefore, it is

Ordered, That the proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission.

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order or by the proceeding thereon.

Further ordered, That a copy of this order be served on the Brooklyn Heights Railroad Company.

Brooklyn Heights Railroad Company.—Increase in number of cars operated on the Flushing-Knickerbocker line.

Case No. 1070

Hearing Order

Opinion of the Commission

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued February 19, 1909, setting March 2d for a hearing. Hearings were held March 2d, 10th and 17th. See opinion of Commissioner Bassett in the preceding case (Case No. 1069) upon which the following order was issued:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Service of the BROOKLYN HEIGHTS
RAILROAD COMPANY in Respect to the Num-
ber of Cars on the Flushing-Knickerbocker Line.

Case No. 1070,
Order of Discontinuance.
May 28, 1909.

An order known as Hearing Order Case No. 1070, having been duly made by the Commission on February 19, 1909, on its own motion, on the question of service of the Brooklyn Heights Railroad Company in respect to the number of cars on the Flushing-Knickerbocker line, and said hearing having been duly had on March 2, 1909, March 10, 1909, and March 17, 1909, before Mr. Commissioner Bassett, presiding, Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Arthur N. Dutton, Esq., appearing for the railroad company, and the opinion of Commissioner Bassett being filed herewith and hereby approved,

Now, therefore, it is

Ordered, That the proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission.

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order or by the proceeding thereon.

Further ordered. That a copy of this order be served on the Brooklyn Heights Railroad Company.

Brooklyn Heights Railroad Company.— Increase in number of cars operated on Graham Avenue line.

Case No. 1071

Hearing Order

Opinion of the Commission

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued February 19, 1909, setting March 2d for a hearing. Hearings were held March 2d, 10th and 17th. See "Opinion of the Commission" in Case No. 1069, *supra*, upon which the following order was issued:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Service of the BROOKLYN HEIGHTS
RAILROAD COMPANY in Respect to the Num-
ber of Cars on the Graham Avenue Line.

Case No. 1071,
Order of Discontinuance.
May 28, 1909.

An order known as Hearing Order Case No. 1071, having been duly made by the Commission on February 19, 1909, on its own motion, on the question of service of the Brooklyn Heights Railroad Company on the Graham Avenue line, and said hearing having been duly had on March 2, 1909, March 10, 1909, and March 17, 1909, before Mr. Commissioner Bassett, presiding, Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Arthur N. Dutton, Esq., appearing for the railroad company, and the opinion of Commissioner Bassett being filed herewith and hereby approved,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission.

And it is further ordered. That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order. or by the proceeding thereon.

Further ordered. That a copy of this order be served on the Brooklyn Heights Railroad Company.

Brooklyn Heights Railroad Company.— Increase in number of cars operated on the Flushing-Ridgewood line.

Case No. 1079

Hearing Order

Opinion of the Commission

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued February 26, 1909, setting March 2d for a hearing. Hearings were held March 2d, 10th and 17th.

OPINION OF THE COMMISSION.

(Adopted May 14, 1909.)

COMMISSIONER BASSETT: —

This proceeding was begun on motion of the Commission because our inspections showed overloading on this line as well as on three other lines that also use Flushing Avenue in part. Hearings were held in this case and the three other cases at the same time as the same evidence was to some extent applicable to each case. As the operation of this line conjointly with the other three lines is intricate and any definite order that might be formulated was considered to be less efficacious than a continued observation of the traffic, the latter course was adopted. Observations recently made show that during the morning westbound between six and nine o'clock thirty-six cars were being operated past the maximum load point as compared to a previous average of twenty-five cars in the same service. The recent count showed only two overload half-hour periods as against five formerly. During the afternoon hours eastbound between five and eight o'clock the corresponding increase was from thirty to thirty-three cars and the overloading decreased from three half-hour periods to one. Occasional periods of overloading due to causes that cannot always be foreseen seem to be inevitable in this locality. The improvement in the operation of this line has been so marked that in my opinion it is proper that the proceeding should be discontinued. The operation of this line however should continue under the supervision of the transit inspection bureau.

Thereupon the following order was issued:

<p>In the Matter of the Hearing on Motion of the Commission on the Question of Service of the BROOKLYN HEIGHTS RAILROAD COMPANY in respect to the number of cars on the FLUSHING-RIDGEWOOD LINE.</p>	<p>Case No. 1079. Discontinuance Order. May 14, 1909.</p>
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An order for hearing having been issued in the above entitled matter on the 1st day of March, 1909, returnable on the 2d day of March, 1909, at 2:30 o'clock in the afternoon; and a hearing having been had pursuant to said order on March 2, March 10, and March 17, 1909, before Commissioner Bassett presiding, Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Arthur N. Dutton, Esq., appearing for said Brooklyn Heights Railroad Company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that improvements have been made in the operation of this line so marked that it is proper that the proceeding should be discontinued.

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is discontinued, and that this order be filed in the office of the Commission.

Brooklyn Heights Railroad Company.—Service on its 65th Street-Fort Hamilton line and its 65th Street-Bay Ridge Avenue line.

Case No. 1084

Hearing Order

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued March 2, 1909, setting March 8th for a hearing to determine what, if any, changes and increases in service ought reasonably to be made on each of the above-mentioned lines. Hearings were held March 8th and 9th. The Commission issued the following order:

<p>In the Matter of the</p>	}	<p>Case No. 1084, Order of Discontinuance. May 11, 1909.</p>
<p>Hearing on the Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the BROOKLYN HEIGHTS RAILROAD COMPANY in respect to its 65th Street-Fort Hamilton Line, and its 65th Street-Bay Ridge Avenue Line.</p>		

An order for hearing in the above entitled matter having been duly made by the Commission on its own motion on the 2d day of March, 1909, on the question of improvement of service and equipment on the 65th Street-Fort Hamilton line and the 65th Street-Bay Ridge Avenue line of the Brooklyn Heights Railroad Company, and said hearing having been duly held on March 8, 1909, and by adjournment duly had on March 9, 1909, before Mr. Commissioner McCarroll, Grosvenor H. Backus, Esq., Assistant Counsel to the Commission, attending, and Mr. Arthur N. Dutton appearing for the Brooklyn Heights Railroad Company, and it being in the opinion of the Commission inadvisable, in view of the action of the company providing increased service, to make an order on the 65th Street-Fort Hamilton line and the 65th Street-Bay Ridge Avenue line, at this time,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued without prejudice to an order or orders for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order in Case No. 1084, or by the proceedings thereon.

Further ordered, That this order be filed in the office of the Commission and that a copy thereof be served on the Brooklyn Heights Railroad Company.

Brooklyn, Queens County and Suburban Railroad Company.—
Service on Ralph Avenue line.

Case No. 678

Opinion of the Commission
Discontinuance Order

OPINION OF THE COMMISSION.

(Adopted August 3, 1909.)

COMMISSIONER MCCARROLL: —

This is an inquiry on the motion of the Commission into the service of the Brooklyn, Queens County & Suburban Railroad Company on the Ralph Avenue line. This is a line operated from Delancey Street, Manhattan, across the Williamsburg Bridge to Canarsie, a distance of a little under ten miles. Most of the travel is through business; that is, from Manhattan to outlying points and the terminal at Canarsie.

While undertaken on the motion of the Commission the inquiry had its origin in numerous complaints received regarding the inadequate service, particularly during the rush hours.

A hearing order was issued on August 14, 1908, and pursuant thereto a hearing was held on the twenty-sixth of that month. Testimony offered established the fact of overcrowding in rush hours and the existence of it was admitted on the stand by the representative of the company, Mr. A. N. Dutton. He stated that after the service of the order for a hearing upon the company a new schedule was prepared which, to a large extent, met the necessities of the travel. This schedule was put into effect on August 24th, and was since in operation. He also stated on behalf of the company that with the beginning of the operation of elevated lines across the Williamsburg Bridge, then set for the 15th of September, material change in the travel over the Ralph Avenue service would doubtless result. He stated that the elevated trains would relieve the pressure upon the surface lines and enable the company to give an entirely adequate service. He requested that further proceedings in the case should be suspended until the results of the new schedule and the elevated operation were observed, stating, also, that it was the purpose of the company to provide all needed facilities. The request was accordingly granted.

Since that time frequent observations and reports have been made by our inspection bureau. These have indicated material improvement and relief in large measure of the overcrowding, though not its entire removal. At other times than in the rush hours the service is adequate.

Representations have been made to the operating company, accompanied by recommendations for complete correction of the conditions, by Mr. Turner, and he has been assured that these are being carried out.

It is to be noted that in the meantime, on the 1st of October, the operation of this line was transferred from the Brooklyn, Queens County & Suburban Railroad Company to the Nassau Electric Railroad Company, which now conducts it.

The companies claim this change to have been made under an old contract executed on March 1, 1907, prior to the date when the Public Service Com-

missions Law took effect. It provided for the use by the Brooklyn, Queens County & Suburban Railroad Company of the Nassau Electric Railroad Company's tracks included in the southern portion of the Ralph Avenue line, but it does not contain any authority for the Nassau Electric Railroad Company to operate any Ralph Avenue line over the Brooklyn, Queens County & Suburban Railroad Company's tracks.

Memorandum of a further agreement, however, was made on September 1, 1908. The purpose of this was to modify the schedule contained in the contract referred to and to provide for the operation of the Ralph Avenue line by the Nassau Electric Railroad Company. The companies filed a copy of this memorandum with the Bureau of Franchises on October 7, 1908. No request, however, was made for its approval, the officials of the two companies, as stated, claiming that the old contract being prior to the Public Service Commissions Law, it was not necessary to obtain the approval of this Commission. That matter will be pursued to a determination.

Under all the circumstances it is my opinion that in the event of any further action being necessary looking to the improvement of the service, it can better be taken by proceeding with the present operating company, namely, the Nassau Electric Railroad Company, as soon as its rights as operator are perfected. I, therefore, recommend the adoption of an order discontinuing the proceedings against the Brooklyn, Queens County & Suburban Railroad Company. Herewith is such order drawn by the counsel, and attached also with papers is the opinion of the counsel under date of June 18, 1909.

Thereupon the Commission issued the following order:

<p>In the Matter of the Hearing on the Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of BROOKLYN, QUEENS COUNTY AND SUBURBAN RAIL- ROAD COMPANY, in respect to Ralph Avenue Surface Line.</p>
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<p>Case No. 678, Order of Discontinuance. August 3, 1909.</p>

An order entitled Order No. 678 having been duly made by the Commission on its own motion on August 14, 1908, on the question of improvements in and additions to the service and equipment on the Ralph Avenue line of Brooklyn, Queens County and Suburban Railroad Company, and said hearing having been duly held on August 26, 1908, before Mr. Commissioner McCarroll, Grosvenor H. Backus, Esq., Assistant Counsel to the Commission, attending, and Mr. Arthur N. Dutton, Esq., appearing for Brooklyn, Queens County and Suburban Railroad Company, and testimony being given, and an adjournment having been taken pending the readjustment of traffic conditions incident to the opening of elevated service across Williamsburg Bridge, and it appearing that since the hearing in this proceeding Brooklyn, Queens County and Suburban Railroad Company has ceased to operate said Ralph Avenue Line and that said line is now operated by another company, now, therefore,

It is ordered. That this proceeding in respect to Brooklyn, Queens County and Suburban Railroad Company, be and the same hereby is in all respects discontinued, without prejudice to an order or orders for further hearing

and action thereon by the Commission in respect to any of the matters covered by said Order No. 678, or by the proceedings thereon.

Further ordered, That this order be filed in the office of the Commission and that a copy thereof be served on Brooklyn, Queens County and Suburban Railroad Company.

Brooklyn Union Elevated Railroad Company; Nassau Electric Railroad Company; South Brooklyn Railway Company and Sea Beach Railway Company.— Service on Fifth Avenue Elevated line.

Case No. 771

Final Order

Extension Orders

Order amending Final Order

Extension Order

Order modifying Final Order

This proceeding was begun in 1908 on motion of the Commission to inquire into the service of the companies on the Fifth Avenue line. Hearings were held in 1908. The Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvements in and Additions to
the Service and Equipment of the BROOKLYN
UNION ELEVATED RAILROAD COMPANY, the
NASSAU ELECTRIC RAILROAD COMPANY,
the SOUTH BROOKLYN RAILWAY COMPANY
and the SEA BEACH RAILWAY COMPANY, in
respect to the FIFTH AVENUE ELEVATED
LINE.

Case No. 771,
Final Order.
January 22, 1909.

Under Order for Hearing Number 771.

The Commission being of opinion after hearing duly held after notice, on October 15, 1908, and October 20, 1908, before Mr. Commissioner McCarroll, that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company, on the Fifth Avenue Line of said companies, have been and are unreasonable, improper and inadequate, and that said companies do not run trains enough and cars enough reasonably to accommodate the traffic transported by or offered for transportation to them; and that the changes in the regulations, equipment and service of said companies in the manner hereinafter specified are just, reasonable and proper;

Now, therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company

and the Sea Beach Railway Company provide daily including Sundays a reasonable and adequate service in each direction past every point on their Fifth Avenue Elevated Line including the Bay Ridge, Prospect Park & Coney Island, Sea Beach and West End Divisions by operating the said line in accordance with the following requirements, so as to furnish either seats for all the passengers or the maximum service that the physical condition of the track will permit:—

First. On the Bay Ridge Division, on Sundays and legal holidays between the hours of 8:45 A. M. and 11:15 P. M. and on other days between 6:30 A. M. and 11:15 P. M., the scheduled headway at any point between trains being operated shall not be greater than ten minutes; on the Prospect Park & Coney Island and the West End Divisions, on Sundays and legal holidays between 9:15 A. M. and 10:30 P. M., and on other days between 7:00 A. M. and 10:30 P. M., not greater than fifteen minutes; on the Sea Beach Division, on Sundays and legal holidays between 10:00 A. M. and 10:30 P. M., not greater than fifteen minutes and on other days between 7:00 A. M. and 10:30 P. M., not greater than twenty minutes; during all hours of the day not covered by the foregoing specifications for the respective divisions, not greater than thirty minutes on any division.

Second. At Park Row, between 7:30 A. M. and 8:30 A. M., daily except Sundays and legal holidays, and between 5:30 P. M. and 6 P. M., daily except Saturdays, Sundays and legal holidays, trains consisting of six cars each shall be operated on a schedule which provides for the despatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all the lines of said Brooklyn Union Elevated Railroad Company which use the Park Row Terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided in one or other of the two following manners:—

I. A sufficient number of cars shall be operated on all trains past any point between Park Row, Manhattan, and 65th Street, Brooklyn; between Park Row and the Culver Terminal at Coney Island; between Park Row and the Sea Beach Terminal at Coney Island, and between Park Row and the West End Terminal at Coney Island to provide a number of seats at least equal to the passengers as follows:—

(a) On every four (4) consecutive trains past such point when the schedule headway between trains operated does not exceed five (5) minutes;

(b) On every three (3) consecutive trains past such point when the scheduled headway between trains operated is more than five but not more than ten (10) minutes;

(c) On every two (2) consecutive trains past that point when the scheduled headway between trains operated is more than ten (10) but not more than twenty (20) minutes;

(d) On each train past that point, when the scheduled headway between trains operated is more than twenty (20) minutes; or

II. Trains of 6 cars each shall be operated past such point upon a schedule which provides for the departure of trains from Park Row, Manhattan, at the minimum rate of 30 trains in thirty (30) minutes on all lines of the said Brooklyn Union Elevated Railroad Company operating from Park Row; and

In addition to such Park Row trains, there shall be operated between Sands Street loops and the above mentioned Southern terminals past such points:—

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I." to provide a number of seats at least equal to the number of passengers on such loop trains, or

(b) Trains of 6 cars under a schedule providing for the departure of trains from said loops at a minimum rate of 14 trains in thirty (30) minutes on all lines of the Brooklyn Union Elevated Railroad Company operating from Sands Street loops.

Fourth. When 6-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" or "Third," the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Fifth Avenue Line and the other lines operating through the Park Row terminal or the Sands Street loops, in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," the said Companies shall schedule to operate and duly despatch and have in operation between Park Row and 65th Street, Culver Terminal, Sea Beach Terminal and West End Terminal; and

Between Sands Street loops and 65th Street and 3d Avenue and Culver Terminal, Sea Beach Terminal, and West End Terminal, a sufficient number of cars and trains to have fulfilled the provisions of the said Second Section or of Subdivision II of said Third Section, as the case may be, had the delay not prevented the operation of the trains as scheduled and despatched.

Notice of such delays which are those due to causes over which the Company has not control must be reported immediately by telephone to the Commission, and a written report giving a full statement of the delay that rendered compliance with the order impossible, made within three days.

Sixth. All through and short line trains operating on the said Fifth Avenue Elevated line shall be designated with proper destination signs at the beginning of and throughout such runs.

Seventh. Within fifteen days after the service of this order and from time to time thereafter the said Company shall prepare proper headway tables and furnish the Commission a copy of the same covering the daily operation of the trains on the said Fifth Avenue Elevated Line, and shall print the said headway tables in a manner to be approved by the Commission and post the same conspicuously in every station of the said Fifth Avenue Elevated Line.

And it is further ordered, That this order shall take effect on the 5th day of February, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of said order, each of said companies, to wit, the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company, notify the Public Service Commission for the First District whether this order is accepted and will be obeyed by said companies.

The Brooklyn Union Elevated Railroad Company having made application for an extension of time when the final order should take effect, the Commission, on February 5th, extended (see blank form of extension order, page 8) such time to February 12th.

The companies having made application for a further extension of time when the final order should take effect, the Commission, on February 16th, extended (see blank form of extension order, page 8) the time when the final order should take effect to February 27th and the time within which the companies should reply to February 20th.

The Brooklyn Union Elevated Railroad Company having made

application for a modification of the terms of said order, the Commission, on February 19th, issued the following order:

CASE NO. 771, ORDER AMENDING FINAL ORDER.
(February 19, 1909.)

An order having been made by this Commission on January 22, 1909, in the above entitled matter and the Brooklyn Union Elevated Railroad Company having applied to the Commission for a modification of the terms of said order, and the Commission being of the opinion after a consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth,

It is hereby

Ordered, That the said order of January 22, 1909, be and the same hereby is amended *nunc pro tunc* so that the said order as amended shall read as follows:

CASE NO. 771, FINAL ORDER.

A hearing having been duly held on October 15, 1908, and October 20, 1908, before Mr. Commissioner McCarroll, at which hearing the Brooklyn Union Elevated Railroad Company duly appeared after notice, and the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company duly appeared and waived notice; and the Commission being of opinion after said hearing that the service and equipment on the Fifth Avenue Line of said companies have been and are unreasonable, improper and inadequate, and that said companies do not run trains enough and cars enough reasonably to accommodate the traffic transported by or offered for transportation to them; and that the changes in the regulations, equipment and service of said companies in the manner hereinafter specified are just, reasonable and proper;

Now, therefore, on motion duly made and seconded, it is

Ordered, That the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company provide daily including Sundays a reasonable and adequate service in each direction past every point on their Fifth Avenue Elevated Line including the Bay Ridge, Prospect Park & Coney Island, Sea Beach and West End Divisions by operating the said line in accordance with the following requirements:

First. On the Bay Ridge Division, on Sundays and holidays between the hours of 8:45 A. M. and 11:15 P. M., and on other days between 6:30 A. M. and 11:15 P. M., the scheduled headway at any point between trains being operated shall not be greater than ten minutes; on the Prospect Park & Coney Island and the West End Division, on Sundays and holidays between 9:15 A. M. and 10:30 P. M., and on other days between 7:00 A. M. and 10:30 P. M., not greater than fifteen minutes; on the Sea Beach Division, on Sundays and holidays between 10:00 A. M. and 10:30 P. M., not greater than fifteen minutes and on other days between 7:00 A. M., and 10:30 P. M., not greater than twenty minutes; during all hours of the day not covered by the foregoing specifications for the respective divisions, not greater than thirty minutes on any division.

Second. At Park Row, between 7:30 A. M. and 8:30 A. M., daily except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M., daily except Saturdays, Sundays and holidays, trains consisting of six cars each shall be operated on a schedule which provides for the despatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all the lines of said Brooklyn Union Elevated Railroad Company which use the Park Row Terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains past any point between Park Row, Manhattan, and 65th Street, Brooklyn; between Park Row and the Culver Terminal at Coney Island; between Park Row and the Sea Beach Terminal at Coney Island, and between Park Row and the West End Terminal at Coney Island to provide a number of seats at least equal to the passengers as follows:

(a) On every four (4) consecutive trains past such point when the scheduled headway between trains operated does not exceed five (5) minutes;

(b) On every three (3) consecutive trains past such point when the scheduled headway between trains operated is more than five but not more than ten (10) minutes;

(c) On every two (2) consecutive trains past that point when the scheduled headway between trains operated is more than ten (10) but not more than twenty (20) minutes.

(d) On each train past that point, when the scheduled headway between trains operated is more than twenty (20) minutes; or

II. Trains of 6 cars each shall be operated past such point upon a schedule which provides for the departure of trains from Park Row, Manhattan, at the minimum rate of 30 trains in thirty (30) minutes on all lines of the said Brooklyn Union Elevated Railroad Company operating from Park Row; and

In addition to such Park Row trains, there shall be operated between Sands Street loops and the above mentioned Southern terminals past such points:

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I," to provide a number of seats at least equal to the number of passengers on such loop trains, or

(b) Trains of 6-cars under a schedule providing for the departure of trains from said loops at a minimum rate of 14 trains in thirty (30) minutes on all lines of the Brooklyn Union Elevated Railroad Company operating from Sands Street loops.

Fourth. When 6-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" or "Third," the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Fifth Avenue Line and the other lines operating through the Park Row terminal or the Sands Street loops, in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," the said companies shall schedule to operate and duly dispatch and have in operation between Park Row and 65th Street, Culver Terminal, Sea Beach Terminal and West End Terminal; and

Between Sands Street loops and 65th Street and 3d Avenue and Culver Terminal, Sea Beach Terminal, and West End Terminal, a sufficient number of cars and trains to have fulfilled the provisions of the said Second section or of Subdivision II of said Third section, as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

Sixth. Each of said companies shall immediately report to this Commission every delay due to its inability to dispatch and put in operation the trains and cars called for in the schedule described in the foregoing section "Fifth;" and within three days after every such delay shall submit in writing a full statement of all the facts in relation thereto.

Seventh. All through and short line trains operating on the said Fifth Avenue Elevated Line shall be designated with proper destination signs at the beginning of and throughout such runs.

Eighth. Within fifteen (15) days after the service of this order and from time to time thereafter, said companies shall prepare proper headway tables

and furnish the Commission a copy of the same covering the daily operation of the trains on the said Fifth Avenue Elevated Line and shall print the said headway tables, together with a copy of the requirements of this order, in a manner to be approved by the Commission and shall post the said printed tables and statement in every station of said Fifth Avenue Elevated Line. And it is further

Ordered, That this order shall take effect on the 20th day of February, 1909, and remain in force until modified by the further order or orders of this Commission, and it is further

Ordered, That within five (5) days after service upon it of a copy of this order, each of said companies, to wit: the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company, notify the Public Service Commission for the First District whether this order is accepted and will be obeyed by said companies respectively.

The Commission, on February 26th, extended (see blank form of extension order, page 8) the time when the final order should take effect to March 20th, and the time within which the companies should reply to March 5th.

The companies having made application for a further modification of the final order, the Commission issued the following order:

CASE No. 771, ORDER MODIFYING FINAL ORDER.

(July 13, 1909.)

An order having been made by this Commission on January 22, 1909, and modified by order of the Commission on February 19, 1909, in the above entitled matter, and the Brooklyn Union Elevated Railroad Company, the Nassau Electric Railroad Company, the South Brooklyn Railway Company and the Sea Beach Railway Company having applied to the Commission for further modification of the terms of said order, and the Commission being of the opinion after a consideration of all the facts, that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth, it is hereby

Ordered, That the said order of January 22, 1909, modified February 19, 1909, be and the same hereby is further modified as follows:

In the paragraph numbered "First," that the figures "9:15 A. M." at the end of the sixth line of said paragraph be changed so as to read "10:00 A. M.;" and that the figures "7:00 A. M." in the seventh line of said paragraph be changed so as to read "7:30 A. M.;" and that the figures "7:00 A. M." in the tenth line of said paragraph be changed so as to read "7:30 A. M."

**Brooklyn Union Elevated Railroad Company.—Service on
Fulton Street Elevated line.**

Case No. 771

Final Order

Extension Order

Order amending Final Order

Extension Order

This proceeding was begun in 1908 upon motion of the Commission to inquire into the service of the company on its

Fulton Street Elevated line. Hearings were held during 1908. The Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the BROOKLYN UNION ELEVATED RAILROAD COMPANY in Respect to the FULTON STREET ELEVATED LINE.

Case No. 771,
Final Order.
January 22, 1909.

Under Order for Hearing No. 771.

The Commission, being of opinion after hearing duly held after a notice, on October 15, 1908, and October 16, 1908, before Mr. Commissioner McCarroll, that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company on the Fulton Street Line of said company have been and are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that the changes in the regulation, equipment and service of said company in the manner hereinafter specified are just, reasonable and proper.

Now, therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service in each direction past every point on its Fulton Street Line, by operating the said line in accordance with the following requirements, so as to furnish either seats for all the passengers or the maximum service that the physical condition of the tracks will permit:

First. Daily between 7 A. M. and 11 P. M., the scheduled headway at any point between trains being operated on said line shall not be greater than ten minutes, and during all other hours not greater than thirty minutes.

Second. At Park Row, between 7:30 A. M. and 8:30 A. M., daily, except Sundays and legal holidays, and between 5:30 P. M. and 6 P. M., daily, except Saturdays, Sundays and legal holidays, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all lines of the said Brooklyn Union Elevated Railroad Company, which use the Park Row terminal.

Third. During all hours daily except as provided in the foregoing section numbered "Second," service shall be provided in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains past any point between Park Row, Manhattan, and "City Line," Brooklyn, to provide a number of seats at least equal to the number of passengers, as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the departure of trains from Park Row, Manhattan, at the minimum rate of thirty trains in thirty minutes, on all lines of the said Brooklyn Union Elevated Railroad Company operating through Park Row, and

In addition to such Park Row trains, there shall be operated between Fulton Ferry and "City Line" past such point

(a) A sufficient number of cars in the manner defined in the foregoing subdivision I to provide a number of seats at least equal to the number of passengers of such Fulton Ferry trains; or

(b) Trains of six cars each under a schedule providing for the departure of trains from Fulton Ferry at a minimum rate of ten trains in thirty minutes, on all lines of the Brooklyn Union Elevated Railroad operating to and from Fulton Ferry.

Fourth. When six-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" or "Third" the number of such six-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Fulton Street Elevated Line and the other lines operating through the Park Row or Fulton Ferry terminals in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays, it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third" said company shall schedule to operate and duly dispatch and have in operation between Park Row and "City Line," and between Fulton Ferry and "City Line," a sufficient number of cars and trains to have fulfilled the provisions of the said second section of Subdivision II of said third section, as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

Notice of such delays, which are those due to causes over which the company has no control, must be reported immediately by telephone to the Commission and a written report giving a full statement of the delay that rendered compliance with the order impossible made within three days.

Sixth. All through and short line trains operating on the said Fulton Street Elevated Line shall be designated with proper destination signs at the beginning of and throughout such runs.

Seventh. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission a copy of the same, covering the daily operation of trains on the said Fulton Street Line, and shall print the said headway tables in a manner to be approved by the Commission and post the same conspicuously in every station of the said Fulton Street Elevated Line.

And it is further ordered, That this order shall take effect on the 5th day of February, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The company having applied for an extension of time within which to notify the Commission whether the terms of the final order would be accepted and obeyed the Commission, on February 9th, extended (see blank form of extension order, page 8) such time to February 20th.

The company made application for a modification of the terms of the final order and the Commission issued the following order:

CASE NO. 771, ORDER AMENDING FINAL ORDER.

(February 19, 1910.)

An order having been made by this Commission on January 22, 1909, in the above entitled matter, and the Brooklyn Union Elevated Railroad Company having applied to the Commission for a modification of the terms of said order, and the Commission being of the opinion after a consideration of all the facts, that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth, it is hereby

Ordered, That the said order of January 22, 1909, be and the same hereby is amended *nunc pro tunc*, so that the said order as amended shall read as follows:

CASE NO. 771, FINAL ORDER.

A hearing having been duly held, after notice, on October 15, 1908, and October 16, 1908, before Mr. Commissioner McCarroll, at which hearing the Brooklyn Union Elevated Railroad Company duly appeared, and the Commission being of the opinion after said hearing that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company on the Fulton Street Line of said company have been and are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it, and that the changes in the regulations, service and equipment of said company in the manner hereinafter specified are just, reasonable and proper;

Now, therefore, on motion duly made and seconded, it is

Ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service in each direction past every point on its Fulton Street Line by operating the said line in accordance with the following requirements:

First. Daily between 7 A. M. and 11 P. M. the scheduled headway at any point between trains being operated on said line shall not be greater than ten minutes, and during all other hours not greater than thirty minutes.

Second. At Park Row, between 7:30 A. M. and 8:30 A. M., daily, except Sundays and legal holidays, and between 5:30 P. M. and 6 P. M. daily, except Saturdays, Sundays and legal holidays, trains consisting of six cars each shall be operated on a schedule which provides for the despatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all lines of the said Brooklyn Union Elevated Railroad Company, which use the Park Row terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains past any point between Park Row, Manhattan, and "City Line," Brooklyn, to provide a number of seats at least equal to the number of passengers, as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the departure of trains from Park Row, Manhattan, at the minimum rate of thirty trains in thirty minutes, on all lines of the said Brooklyn Union Elevated Railroad Company operating through Park Row, and

In addition to such Park Row trains, there shall be operated between Fulton Ferry and "City Line" past such point

(a) A sufficient number of cars in the manner defined in the foregoing Subdivision I to provide a number of seats at least equal to the number of passengers of such Fulton Ferry trains; or

(b) Trains of six cars each under a schedule providing for the departure of trains from Fulton Ferry at a minimum rate of ten trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad operating to and from Fulton Ferry.

Fourth. When 6-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" or "Third," the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Fulton Street Elevated Line and the other lines operating through the Park Row or Fulton Ferry terminals in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," said company shall schedule to operate and duly despatch and have in operation between Park Row and "City Line," and between Fulton Ferry and "City Line," a sufficient number of cars and trains to have fulfilled the provisions of the said second section or of Subdivision II of said third section, as the case may be, had the delay not prevented the operation of the trains as scheduled and despatched.

Sixth. All delays due to the company's inability to despatch and put in operation the trains and cars called for in the schedules described in the foregoing section "Fifth" shall be immediately reported to the Commission, and within three days after every such delay a full statement in writing of all the facts in relation thereto shall be submitted.

Seventh. All through and short line trains operating on the Fulton Street Elevated Line shall be designated with proper destination signs at the beginning of and throughout their runs.

Eighth. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission with a copy of the same covering the daily operation of the trains on the said Fulton Street Elevated Line, and shall print the said headway tables, together with a copy of the requirements of this order, in a manner to be approved by the Commission, and shall post the said printed tables and a copy in every station of said Fulton Street Elevated Line.

And it is further ordered, That this order shall take effect on the 20th day of February, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order, the said Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed by said company.

The Commission, on February 26th, extended (see blank form of extension order, page 8) the time when the order amending final order was to take effect to March 20th, and the time of the company to reply to March 5th.

**Brooklyn Union Elevated Railroad Company.—Service on
Broadway line.**

Case No. 1014
Final Order
Opinion of the Commission
Extension Order
Order amending Final Order

This proceeding was instituted in 1908; hearings were held December 24 and 31, 1908, and January 11 and 25, 1909.

OPINION OF THE COMMISSION.

(Adopted February 2, 1909.)

COMMISSIONER BASSETT: —

The through elevated operation across the Williamsburg Bridge necessarily disturbed for a time the traffic on the Broadway line, Myrtle Avenue line and Lexington Avenue line. Since this operation began frequent complaints have been made against all of these lines both on account of irregularity and congestion. The three lines should be considered together because the number of trains that can be operated on the Lexington Avenue line across Brooklyn Bridge have a relation to the number of trains on all the lines, including the Myrtle Avenue line, and because the number of trains that can be operated on a portion of the Broadway line is limited by the number of Lexington Avenue trains that must be operated on the same portion of this line. Hearings have been held in an effort to obtain a somewhat uniform form of order not only for these three lines but for all of the Brooklyn elevated lines. The general object has been to cause an operation that will come as near to giving a seat to every passenger as is practicable. The reason why this ideal cannot be attained is because in the rush hours enough trains cannot be sent across the two tracks on Brooklyn Bridge to seat every passenger. The same statement applies to Adams Street and Myrtle Avenue so far as Hudson Avenue, to Fulton Street so far as Franklin Avenue, and to the Broadway line between Lexington Avenue and Pitkin Avenue. The general object of these orders may be stated as follows: To cause a maximum proportional service during rush hours over the points of restricted capacity, to cause a maximum operation of short line trains in rush hours, and to operate in non-rush hours an average of as many seats as there are passengers. It is impracticable to require that every train in non-rush hours shall have seats enough for all passengers because unavoidable delays will always cause an occasional train to take more than its share of waiting passengers, and the arrival of large numbers of people, as from theatres, will at times crowd any train. The requirement is that a waiting passenger must be able to get a seat in non-rush hours by waiting four trains when the scheduled headway is five minutes, by waiting three trains when the scheduled headway is ten minutes, by waiting for two trains when the scheduled headway is fifteen minutes. Headway tables must be placed in the stations and it is expected that the public will assist by notifying the Commission of violation.

This order will cause a somewhat unique situation in the case of the Broadway line. On this line the point of restriction is not Williamsburg Bridge or lower Broadway, but is that part of upper Broadway which accommodates the Lexington Avenue trains in addition to the Broadway trains. Lexington Avenue trains by reason of restriction at Brooklyn Bridge and Adams Street suffer a limitation before they reach Broadway. Therefore, as their number is determined by antecedent conditions, the number of Lexington Avenue trains on Broadway allow the introduction of a sufficient number of Broadway trains so that approximately a seat can be given to every passenger even in the rush hours. In other words, these orders require a very liberal service on the Broadway line in rush hours. It is fairly likely that this requirement would be unduly onerous to the company if at the same time it should be required to operate all of its Williamsburg Bridge trains the entire length of the line. The order permits, however, the cutting back of trains at Myrtle Avenue or Gates Avenue in the discretion of the operating company, and although this practice if resorted to will be apt to produce complaint, yet I believe that it will be justified on this line after this order goes into operation. In other words, if the company is compelled to run trains enough to give seats to approximately all passengers in rush hours, it should be allowed to make the greatest possible use of its cars needed for this peak business. The company has quite successfully demonstrated that it is highly unprofitable for it to furnish cars and extra power capacity when this extra car capacity can earn only during two trips each day. This argument, carried to its logical conclusion, would mean that the company should be permitted to supply an inadequate service although the track capacity would permit an adequate service. The Public Service Commissions Law demands adequate service first of all requirements. To fulfill the law a company may in some instances need to run certain trains that are not remunerative. But while insisting on a seat for every passenger as the ideal of adequacy, the Commission should be liberal in allowing the company to cut back its trains so as to run the fewest possible vacant seats.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission as to the
Regulations, Practices, Equipment and Service of
the BROOKLYN UNION ELEVATED RAIL-
ROAD COMPANY in respect to its Broadway
Line.

Case No. 1014,
Final Order.
February 2, 1909.

Under Order for Hearing, Case No. 1014.

The Commission being of opinion after hearing duly held after notice, on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, that the regulations, practices, equipment and service of the Brooklyn Union Elevated Railroad Company in respect to transportation of persons on its Broadway Elevated Line in the First District are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and

devices used by said company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers, and that changes in the regulations, practices, equipment and service of said company in the manner hereinafter specified are just, reasonable and proper,

Now, therefore, on motion duly made and seconded, it is

Ordered, That the Brooklyn Union Elevated Railroad Company provide daily including Sundays a reasonable and adequate service in each direction past every point on its Broadway Elevated Line by operating the said line in accordance with the following requirements, so as to furnish either seats for all passengers or the maximum service that the physical condition of the tracks will permit:

First. On Sundays and holidays between 7:00 A. M. and 11:00 P. M., the scheduled headway between trains being operated shall not be greater than ten minutes at any point between Delancey Street terminal and Canarsie terminal. On other days between 6:30 A. M. and 11:00 P. M. the scheduled headway shall not be greater than ten minutes at any point between Eastern Parkway station and Delancey Street terminal and not greater than fifteen minutes at any point between Eastern Parkway and Canarsie terminal. At all other times the scheduled headway between trains being operated shall not be greater than thirty minutes at any point between Delancey Street terminal and Canarsie terminal.

Second. During all hours daily, service shall be provided past any point between the Delancey Street terminal, Manhattan, and Canarsie terminal, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers, as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between the trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between the trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between the trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point on a schedule which provides for the operation of trains over the tracks of the said Broadway Line between Lexington Avenue and Pitkin Avenue at a minimum rate of twenty-one trains in thirty minutes on all lines of the said Brooklyn Union Elevated Railroad Company operating over the said portion of the Broadway Line tracks.

Third. When 6-cars trains are operated at the minimum rate prescribed in the foregoing section numbered "Second" the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Broadway Line and the other lines operating over the said portion of the Broadway Line tracks between Lexington Avenue and Pitkin Avenue in such manner as the Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said line.

Fourth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing section numbered "Second," the said company shall schedule to operate and duly dispatch and have in operation between Delancey Street terminal and Canarsie terminal a sufficient number of cars and trains to have fulfilled the provisions of said second section, had the delay not prevented the operation of the trains as scheduled and dispatched.

All delays due to the company's inability to dispatch and put in operation

the trains and cars called for in the regular schedule shall be immediately reported to the Commission and within three days a full written report shall be submitted.

Fifth. All through and short line trains operating on the Broadway Elevated Line shall be designated with proper destination signs at the beginning of and throughout their runs.

Sixth. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission a copy of the same covering the daily operation of trains on the said Broadway Elevated Line and shall print said headway tables in a manner to be approved by the Commission and post the same conspicuously in every station of the said Broadway Elevated Line.

And it is further ordered, That this order shall take effect on the 15th day of February, 1909, and remain in force until modified by the further order or orders of this Commission; and it is

Further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Upon application by the company the time within which to make answer to the terms of the foregoing final order was extended on February 9th to and including February 18th; the company also made application for a modification of the terms of the said order, upon which the following amending order was issued:

CASE NO. 1014, ORDER AMENDING FINAL ORDER.
(February 19, 1909.)

An order having been made by this Commission on the 2d day of February, 1909, in the above entitled matter; and the Brooklyn Union Elevated Railroad Company having applied to the Commission for a modification of the terms of said order; and the Commission being of the opinion after a consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth, it is hereby

Ordered, That the said order of February 2, 1909, be and the same hereby is amended, *nunc pro tunc*, so that the said order as amended shall read as

CASE NO. 1014, FINAL ORDER.

A hearing having been duly held on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, at which hearing the Brooklyn Union Elevated Railroad Company duly appeared, and the Commission being of the opinion after said hearing that the regulations, practices, equipment and service of the Brooklyn Union Elevated Railroad Company in respect to the transportation of persons on its Broadway Line, in the First District, are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and devices used by said company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers, and that changes in the regulations, practices, equipment and service of said company in the manner hereinafter specified are just, reasonable and proper,

Now, therefore, on motion duly made and seconded, it is

Ordered, That the Brooklyn Union Elevated Railroad Company provide daily including Sundays a reasonable and adequate service in each direction past every point on its Broadway Elevated Line by operating the said line in accordance with the following requirements:

First. On Sundays and holidays between 7:00 A. M. and 11:00 P. M. the scheduled headway between trains being operated shall not be greater than ten minutes at any point between Delancey Street terminal and Canarsie terminal. On other days between 6:30 A. M. and 11:00 P. M., the scheduled headway shall not be greater than ten minutes at any point between Eastern Parkway station and Delancey Street terminal and not greater than fifteen minutes at any point between Eastern Parkway and Canarsie terminal. At all other times the scheduled headway between trains being operated shall not be greater than thirty minutes at any point between Delancey Street terminal and Canarsie terminal.

Second. During all hours daily, service shall be provided past any point between the Delancey Street terminal, Manhattan, and Canarsie terminal, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers, as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between the trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between the trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between the trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point on a schedule which provides for the operation of trains over the tracks of the said Broadway Line between Lexington Avenue and Pitkin Avenue at a minimum rate of twenty-one trains in thirty minutes on all lines of the said Brooklyn Union Elevated Railroad Company operating over the said portion of the Broadway Line tracks.

Third. When 6-car trains are operated at the minimum rate prescribed in the foregoing section numbered "Second" the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Broadway Line and the other lines operating over the said portion of the Broadway Line tracks between Lexington Avenue and Pitkin Avenue in such manner as the Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said line.

Fourth. When, owing to unavoidable delays it is impossible to carry out the provisions of the foregoing section numbered "Second" the said company shall schedule to operate and duly dispatch and have in operation between Delancey Street terminal and Canarsie terminal a sufficient number of cars and trains to have fulfilled the provisions of said second section, had the delay not prevented the operation of the trains as scheduled and dispatched.

Fifth. All delays due to the company's inability to dispatch and put in operation the trains and cars called for in the schedules referred to in the foregoing section "Fourth" shall be immediately reported to the Commission; and within three days after every such delay a full statement in writing of all the facts in relation thereto shall be submitted.

Sixth. All through and short line trains operating on the Broadway Elevated Line shall be designated with proper destination signs at the beginning of and throughout their runs.

Seventh. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission with a copy of the same covering the daily operation of the trains on the said Broadway Elevated Line, and shall print

the said headway tables, together with a copy of the requirements of this order, in a manner to be approved by the Commission, and shall post the said printed tables and copy in every station of said Broadway Elevated Line.

And it is further ordered, That this order shall take effect on the 20th day of March, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Brooklyn Union Elevated Railroad Company.—Service on Myrtle Avenue line.

Case No. 1019

Opinion of the Commission
Final Order
Extension Order
Order amending Final Order

This proceeding was begun in 1908. Hearings were held January 11 and 25, 1909. See "Opinion of the Commission" in Case No. 1014, *supra*, upon which the following order was issued:

<p>In the Matter of the Hearing on the Motion of the Commission as to the Regulations, Practices, Equipment and Ser- vice of the BROOKLYN UNION ELEVATED RAILROAD COMPANY in respect to its Myrtle Avenue Line.</p>

Case No. 1019,
Final Order.
February 2, 1909.

Under Order for Hearing, Case No. 1019.

The Commission being of opinion, after hearing duly held after notice, on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company on the Myrtle Avenue line of said Company have been and are unreasonable, improper and inadequate in that said Company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and devices used by said Company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers; and that the changes in the practices, regulations, equipment and service of said Company, hereinafter specified, are just, reasonable and proper.

Now, therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service, in each

direction, past every point on its Myrtle Avenue Elevated line, by operating the said line in accordance with the following requirements, so as to furnish either seats for all passengers or the maximum services that the physical condition of the tracks will permit.

First. On Sundays and holidays, between 9:30 A. M. and 11:00 P. M. and on other days between 6:30 A. M. and 11:00 P. M., the scheduled headway between trains being operated at any point between Park Row, Manhattan, and Metropolitan Avenue, Brooklyn, shall not be greater than ten (10) minutes, and during all other hours not greater than thirty (30) minutes.

Second. Between 7:30 A. M. and 8:30 A. M., daily except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M., daily except Saturdays, Sundays and holidays, at Park Row, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least thirty-two trains in thirty (30) minutes upon all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided past any point between Park Row, Manhattan, and Metropolitan Avenue, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five (5) minutes.

(b) On every three consecutive trains past such point when the scheduled headway between trains being operated is more than five (5) but not more than ten (10) minutes.

(c) On every two consecutive trains past such point when the scheduled headway between trains being operated is more than ten (10) but not more than twenty (20) minutes.

(d) On each train past such point when the scheduled headway between trains being operated is more than twenty (20) minutes; or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the dispatching of trains from Park Row, Manhattan, at the minimum rate of thirty (30) trains in thirty (30) minutes on all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal; and in addition to such Park Row trains there shall be operated from Sands Street loops, between Sands Street and Metropolitan Avenue, past such point:

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I" to provide a number of seats at least equal to the number of passengers on such Sands Street loop trains, or

(b) Trains of six cars each under a schedule providing for the dispatching of trains from Sands Street loops at a minimum rate of fourteen (14) trains in thirty (30) minutes on all lines of the Brooklyn Union Elevated Railroad Company which operate the Sands Street loops.

Fourth. When six car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" and "Third," the number of such six-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Myrtle Avenue Elevated line and the other lines operating through the Park Row terminal or the Sands Street loops in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When, owing to unavoidable delays, it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," said Company shall schedule to operate and duly dispatch and have in operation between Park Row and Metropolitan Avenue, and between Sands Street loops and Metropolitan Avenue, a sufficient number of cars and trains to have fulfilled the provisions of the said section "Second" or of subdivision "II" of said section "Third," as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

All delays due to the Company's inability to dispatch and put in operation the trains and cars called for in the regular schedule shall be immediately reported to the Commission, and within three days a full written report shall be submitted.

Sixth. All through and short-line trains operating on the said Myrtle Avenue Elevated line shall be designated with proper destination signs at the beginning of and throughout their runs.

Seventh. Within fifteen days after the service of this order and from time to time thereafter said Company shall prepare proper headway tables and furnish the Commission a copy of the same, covering the daily operation of the trains on the said Myrtle Avenue Elevated line, and shall print the said headway tables in a manner to be approved by the Commission and post the same conspicuously in every station of the said Myrtle Avenue Elevated line.

And it is further ordered, That this order shall take effect on the 15th day of February, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Upon application of the company the time within which to accept the above order was extended on February 9th (see blank form of extension order, page 8) to and including February 18th.

The company also made application for a modification of the terms of said final order. The Commission issued the following order:

CASE NO. 1019, ORDER AMENDING FINAL ORDER.

February 19, 1909.

An order having been made by this Commission on February 2, 1909, in the above-entitled matter, and the Brooklyn Union Elevated Railroad Company having applied to the Commission for a modification of the terms of said order; and the Commission being of the opinion after a consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth,

It is hereby ordered, That the said order of February 2, 1909, be and the same hereby is amended *nunc pro tunc*, so that the said order as amended shall read as follows:

CASE NO. 1019, FINAL ORDER.

A hearing having been duly held on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, at which hearing the Brooklyn Union Elevated Railroad Company duly ap-

peared; and the Commission being of opinion after said hearing that the regulations, service and equipment of the Brooklyn Union Railroad Company on the Myrtle Avenue Line of said company have been and are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and devices used by said company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers; and that the changes in the practices, regulations, equipment and service of said company, hereinafter specified, are just, reasonable and proper;

Now, therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service, in each direction, past every point on its Myrtle Avenue Elevated Line, by operating the said line in accordance with the following requirements:

First. On Sundays and holidays, between 9:30 A. M. and 11:00 P. M., and on other days between 6:30 A. M. and 11:00 P. M., the scheduled headway between trains being operated at any point between Park Row, Manhattan, and Metropolitan Avenue, Brooklyn, shall not be greater than ten (10) minutes, and during all other hours not greater than thirty (30) minutes.

Second. Between 7:30 A. M. and 8:30 A. M., daily except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M., daily except Saturdays, Sundays and holidays, at Park Row, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least 32 trains in thirty (30) minutes upon all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided past any point between Park Row, Manhattan, and Metropolitan Avenue, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five (5) minutes.

(b) On every three consecutive trains past such point when the scheduled headway between trains being operated is more than five (5) but not more than ten (10) minutes.

(c) On every two consecutive trains past such point when the scheduled headway between trains being operated is more than ten (10) but not more than twenty (20) minutes.

(d) On each train past such point when the scheduled headway between trains being operated is more than twenty (20) minutes, or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the dispatching of trains from Park Row, Manhattan, at the minimum rate of thirty (30) trains in thirty (30) minutes on all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal, and in addition to such Park Row trains there shall be operated from Sands Street loops, between Sands Street and Metropolitan Avenue, past such point

(a) A sufficient number of cars in the manner defined in the foregoing Subdivision I to provide a number of seats at least equal to the number of passengers on such Sands Street loop trains, or

(b) Trains of six cars each under a schedule providing for the despatching of trains from Sands Street loops at a minimum rate of fourteen (14) trains in thirty (30) minutes on all lines of the Brooklyn Union Elevated Railroad Company which operate the Sands Street loops.

Fourth. When 6-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" and "Third," the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Myrtle Avenue Elevated Line and the other lines operating through the Park Row terminal or the Sands Street loops in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When, owing to unavoidable delays, it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," said company shall schedule to operate and duly despatch and have in operation between Park Row and Metropolitan Avenue, and between Sands Street loops and Metropolitan Avenue, a sufficient number of cars and trains to have fulfilled the provisions of the said section "Second" or of Subdivision "II" of said section "Third," as the case may be, had the delay not prevented the operation of the trains as scheduled and despatched.

Sixth. All delays due to the company's liability to despatch and put in operation the trains and cars called for in the schedules referred to in the foregoing section "Fifth" shall be immediately reported to the Commission, and within three days after every such delay a full statement in writing of all the facts in relation thereto shall be submitted.

Seventh. All through and short line trains operating on the Myrtle Avenue Line shall be designated with proper destination signs at the beginning of and throughout their runs.

Eighth. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission with a copy of the same covering the daily operation of the trains on the said Myrtle Avenue Line, and shall print the said headway tables, together with a copy of the requirements of this order, in a manner to be approved by the Commission, and shall post the said printed tables and copy in every station of said Myrtle Avenue Line.

And it is further ordered, That this order shall take effect on the 20th day of March, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

**Brooklyn Union Elevated Railroad Company.—Service on
Lexington Avenue line.**

Case No. 1020

Opinion of the Commission

Final Order

Extension Order

Order amending Final Order

This proceeding was begun in 1908. Hearings were held January 11 and 25, 1909. See "Opinion of the Commission" in Case No. 1014, upon which the following order was issued:

In the Matter
of the
Hearing on the Motion of the Commission as to the
Regulations, Practices, Equipment and Service of
the BROOKLYN UNION ELEVATED RAIL-
ROAD COMPANY in Respect to Its Lexington
Avenue Line.

Case No. 1020,
Final Order.
February 2, 1909.

Under Order for Hearing, Case No. 1020.

The Commission being of opinion after hearing duly held, after notice, on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company on the Lexington Avenue Line of said Company have been and are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and devices used by said company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers, and that the changes in the practices, regulations, equipment and service of said company, hereinafter specified, are just, reasonable and proper.

Now, therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service, in each direction, past every point on its Lexington Avenue line, by operating the said line in accordance with the following requirements so as to furnish either seats for all passengers, or the maximum service that the physical condition of the tracks will permit:

First. On Sundays and holidays between 8:00 A. M. and 11:00 P. M. and on other days between 6:45 A. M. and 11:00 P. M. the scheduled headway between trains being operated at any point between Park Row, Manhattan, and Cypress Hills, Brooklyn, shall not be greater than ten minutes and during all other hours shall not be greater than thirty minutes.

Second. Between 7:30 A. M. and 8:30 A. M. daily except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M. daily except Saturdays, Sundays and holidays, at Park Row, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal.

Third. During all hours daily except as provided in the foregoing section numbered "Second" service shall be provided past any point between Park Row, Manhattan, and Cypress Hills, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between the trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between the trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between the trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the dispatching of trains from Park Row, Manhattan, at the minimum rate of thirty trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad Company which use the Park Row terminal, and in addition to such Park Row trains, there shall be operated from Sands Street loops between Sands Street and Cypress Hills past such point

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I" to provide a number of seats at least equal to the number of passengers on such Sands Street loop trains, or

(b) Trains of six cars each under a schedule providing for the dispatching of trains from Sands Street loops at a minimum rate of fourteen trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad Company which use the Sands Street loops.

Fourth. When six-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" and "Third," the number of such six-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Lexington Avenue line and the other lines operating through the Park Row terminal or the Sands Street loops in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," said company shall schedule to operate and duly dispatch and have in operation between Park Row and Cypress Hills and between Sands Street loops and Cypress Hills a sufficient number of cars and trains to have fulfilled the provisions of the said section "Second" or of subdivision "2" of said section "Third," as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

All delays due to the company's inability to dispatch and put in operation the trains and cars called for in the regular schedule shall be immediately reported to the Commission and within three days a full written report shall be submitted.

Sixth. All through and short-line trains operating on the said Lexington Avenue Elevated line shall be designated with proper destination signs at the beginning of and throughout their runs.

Seventh. Within fifteen days after the service of this order and from time to time thereafter said company shall prepare proper headway tables and furnish the Commission a copy of the same, covering the daily operation of the trains on the said Lexington Avenue Elevated line, and shall print the said headway tables in a manner to be approved by the Commission and post the same conspicuously in every station of the said Lexington Avenue Elevated line.

And it is further ordered, That this order shall take effect on the 15th day of February, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Upon application of the company the time within which to accept the above order was extended (see blank form of extension order, page 8) to and including February 18th.

The company also made application for a modification of the terms of said final order. The Commission issued the following order:

CASE No. 1020, ORDER AMENDING FINAL ORDER.

(February 19, 1909.)

An order having been made by this Commission on February 2, 1909, in the above entitled matter; and the Brooklyn Union Elevated Railroad Company having applied to the Commission for a modification of the terms of said order; and the Commission being of the opinion after a consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth,

It is hereby ordered, That the said order of February 2, 1909, be and the same hereby is amended *nunc pro tunc*, so that the said order as amended shall read as follows:

CASE No. 1020, FINAL ORDER.

A hearing having been duly held on December 24, 1908, December 31, 1908, January 11, 1909, and January 25, 1909, before Mr. Commissioner Bassett, at which hearing the Brooklyn Union Elevated Railroad Company duly appeared; and the Commission being of opinion after said hearing that the regulations, service and equipment of the Brooklyn Union Elevated Railroad Company on the Lexington Avenue Line of said company have been and are unreasonable, improper and inadequate in that said company does not run trains enough and cars enough on said line reasonably to accommodate the traffic transported by or offered for transportation to it; and that improvements, changes and additions to and in the property and devices used by said company ought reasonably to be made in order to promote the convenience of the public and in order to secure adequate facilities for the transportation of passengers; and that the changes in the practices, regulations, equipment and service of said company, hereinafter specified, are just, reasonable and proper; now therefore, on motion duly made and seconded,

It is ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service, in each direction, past every point on its Lexington Avenue Elevated Line, by operating the said line in accordance with the following requirements:

First. On Sundays and holidays between 8:00 A. M. and 11:00 P. M. and on other days between 6:45 A. M. and 11:00 P. M. the scheduled headway between trains being operated at any point between Park Row, Manhattan, and Cypress Hills, Brooklyn, shall not be greater than ten minutes and during all other hours shall not be greater than thirty minutes.

Second. Between 7:30 A. M. and 8:30 A. M. daily except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M. daily except Saturdays, Sundays and holidays at Park Row, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal.

Third. During all hours daily except as provided in the foregoing section numbered "Second" service shall be provided past any point between Park Row, Manhattan, and Cypress Hills, Brooklyn, in one or other of the two following manners:

I. A sufficient number of cars shall be operated on all trains to provide a number of seats at least equal to the number of passengers as follows:

(a) On every four consecutive trains past such point when the scheduled headway between the trains being operated does not exceed five minutes.

(b) On every three consecutive trains past such point when the scheduled headway between the trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past such point when the scheduled headway between the trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between the trains being operated is more than twenty minutes; or.

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the dispatching of trains from Park Row, Manhattan, at the minimum rate of thirty trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad Company which use the Park Row terminal, and in addition to such Park Row trains, there shall be operated from Sands Street loops between Sands Street and Cypress Hills past such point

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I" to provide a number of seats at least equal to the number of passengers on such Sands Street loop trains, or

(b) Trains of six cars each under a schedule providing for the dispatching of trains from Sands Street loops at a minimum rate of fourteen trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad Company which use the Sands Street loops.

Fourth. When 6-car trains are operated at the minimum rate prescribed in the foregoing sections numbered "Second" and "Third", the number of such 6-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Lexington Avenue line and the other lines operating through the Park Row terminal of the Sands Street loops in such manner as the said Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When owing to unavoidable delays it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third", said company shall schedule to operate and duly dispatch and have in operation between Park Row and Cypress Hills and between Sands Street loops and Cypress Hills a sufficient number of cars and trains to have fulfilled the provisions of the said section "Second" or of subdivision "II" of said section "Third", as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

Sixth. All delays due to the company's inability to dispatch and put in operation the trains and cars called for in the schedules referred to in the foregoing section "Fifth" shall be immediately reported to the Commission, and within three days after every such delay a full statement in writing of all the facts in relation thereto shall be submitted.

Seventh. All through and short line trains operating on the Lexington Avenue Line shall be designated with proper destination signs at the beginning of and throughout their runs.

Eighth. Within fifteen days after the service of this order and from time to time thereafter, said company shall prepare proper headway tables and furnish the Commission with a copy of the same, covering the daily operation of the trains on the said Lexington Avenue Line, and shall print the said headway table, together with a copy of the requirements of this order, in a manner to be approved by the Commission, and shall post the said printed tables and copy in every station of said Lexington Avenue Line.

And it is further ordered, That this order shall take effect on the 20th day of March, 1909, and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Brooklyn Union Elevated Railroad Company.—Service on
Brighton Beach line.

Case No. 1064
Hearing Order
Final Order

A hearing order (see blank form of hearing order, page 9) was issued February 19, 1909, setting February 23d for a hearing, which was duly had and thereafter the following order was issued:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvements in and Additions to
the Service and Equipment of the BROOKLYN
UNION ELEVATED RAILROAD COMPANY in
respect to the BRIGHTON BEACH LINE.

Case No. 1064,
Final Order
February 26, 1909.

A hearing having been duly held on the 23d day of February, 1909, before Mr. Commissioner McCarroll, at which hearing the Brooklyn Union Elevated Railroad Company duly appeared; and the Commission being of the opinion after said hearing that the Brooklyn Union Elevated Railroad Company does not run trains enough and cars enough on its Brighton Beach line reasonably to accommodate the traffic transported by or offered for transportation to it, and that the changes in the regulations, service and equipment of said Company in the manner hereinafter specified are just, reasonable and proper,

Now, therefore, on motion duly made and seconded, it is

Ordered, That the Brooklyn Union Elevated Railroad Company provide daily, including Sundays, a reasonable and adequate service in each direction past every point on its Fulton Street line, by operating the said line in accordance with the following requirements:

First. Daily, between 8:30 A. M. and 7:45 P. M., the scheduled headway between trains being operated on said line shall not be greater than ten minutes at any point between Kings Highway, Brooklyn, and Park Row, Manhattan, and between the hours of 8:30 A. M. and midnight not greater than fifteen minutes at any point between Culver Terminal, Coney Island, and Park Row, Manhattan. On Sundays and holidays, between 10:00 A. M. and 11:00 P. M., the scheduled headway shall not be greater than fifteen minutes at any point between Culver Terminal and Park Row. During all hours not covered by the foregoing specifications the scheduled headway between trains being operated past any point on said Brighton Beach line shall not be greater than thirty minutes.

Second. At Park Row, between 7:30 A. M. and 8:30 A. M., daily, except Sundays and holidays, and between 5:30 P. M. and 6:00 P. M., daily, except Saturdays, Sundays and holidays, trains consisting of six cars each shall be operated on a schedule which provides for the dispatching from Park Row of a total of at least thirty-two trains in thirty minutes upon all lines of the said Brooklyn Union Elevated Railroad Company which use the Park Row terminal.

Third. During all hours daily, except as provided in the foregoing section numbered "Second," service shall be provided in one or the other of the two following manners:

I. A sufficient number of cars shall be operated on all trains past any point between Park Row, Manhattan, and Culver terminal, Coney Island, to provide a number of seats at least equal to the number of passengers as follows:

(a) On every four consecutive trains past such point when the scheduled headway between trains being operated does not exceed five minutes.

(b) On every three consecutive trains past said point when the scheduled headway between trains being operated is more than five but not more than ten minutes.

(c) On every two consecutive trains past said point when the scheduled headway between trains being operated is more than ten but not more than twenty minutes.

(d) On each train past such point when the scheduled headway between trains being operated is more than twenty minutes; or

II. Trains of six cars each shall be operated past such point upon a schedule which provides for the departure of trains from Park Row, Manhattan, at the minimum rate of thirty trains in thirty minutes on lines of the said Brooklyn Union Elevated Railroad Company operating through Park Row terminal; and

In addition to such Park Row trains there shall be operated from Fulton Ferry or Kings County terminal, between Fulton Ferry and Culver terminal, past such point

(a) A sufficient number of cars in the manner defined in the foregoing subdivision "I" to provide a number of seats at least equal to the number of passengers on such Fulton Ferry or Kings County terminal trains; or

(b) Trains of six cars each under a schedule providing for the departure of trains from Fulton Ferry at a minimum rate of ten trains in thirty minutes on all lines of the Brooklyn Union Elevated Railroad Company operating to and from Fulton Ferry.

Fourth. When six-car trains are operated at the minimum rate prescribed in the foregoing sections "Second" or "Third," the number of such six-car trains to be operated by the Brooklyn Union Elevated Railroad Company shall be apportioned among the Brighton Beach line and the other lines operating through the Park Row or Fulton Ferry terminals in such manner as the Brooklyn Union Elevated Railroad Company determines is best to accommodate the traffic on said lines.

Fifth. When, owing to unavoidable delays, it is impossible to carry out the provisions of the foregoing sections numbered "Second" or "Third," said company shall schedule to operate and duly dispatch and have in operation, between Park Row and Culver terminal, and between Fulton Ferry or Kings County terminal and the Culver terminal, a sufficient number of cars and trains to have fulfilled the provisions of the said second section or of subdivision "II" of said third section, as the case may be, had the delay not prevented the operation of the trains as scheduled and dispatched.

Sixth. All delays due to the company's inability to dispatch and put in operation the trains and cars called for in the schedules described in the foregoing section five shall be immediately reported to the Commission, and within three days after every such delay a full statement in writing of all the facts in relation thereto shall be submitted.

Seventh. All through and short-line trains operating on the Brighton Beach line shall be designated with proper destination signs at the beginning of and throughout their runs.

Eighth. Within five days after the service of this order, and from time to time thereafter, said company shall prepare headway tables and furnish the Commission with a copy of the same covering the daily operation of the trains on the said Brighton Beach line, and shall print said headway tables, together with a copy of the requirements of this order, in a manner to be approved by the Commission, and shall post the said printed tables and copy of the requirements in every station of said Brighton Beach line.

And it is further ordered. That this order shall take effect on the 20th day of March, 1909, and remain in force until further modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service upon it of a copy of this order the said Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed by said company.

Coney Island and Brooklyn Railroad Company.—Service on DeKalb Avenue line.

In the Matter
of the
Hearing on motion of the Commission on the ques-
tion of improvements in and additions to the
service and equipment of the CONEY ISLAND
AND BROOKLYN RAILROAD COMPANY.

Case No. 384-A,
Discontinuance Order.
May 18, 1909.

“Service on DeKalb Avenue Line.”

A hearing order having been adopted herein on April 7, 1908, and pursuant thereto hearings were held and testimony taken on April 14, April 21, April 28 and May 4, 1908, and an opinion having been submitted by Commissioner Bassett on May 28, 1908, in which he advised that with the then schedule and the use of open cars the traffic was being properly handled,

Ordered, That this proceeding be, and the same hereby is discontinued, without prejudice to any future proceedings hereon.

Coney Island and Brooklyn Railroad Company.—Insufficient service, DeKalb Avenue line at Borough Hall.

Case No. 281

This proceeding was begun in 1908 upon the complaint of Walter Rappelyea Davies in regard to the service of the DeKalb Avenue line at Borough Hall. The company answered the complaint denying that its service was inadequate. An inspection of the service at Borough Hall was made by employees of the Commission, who reported that the service was reasonably adequate. The Commission issued the following order:

WALTER RAPPELYEA DAVIES,
Complainant,
against
THE CONEY ISLAND AND BROOKLYN RAIL-
ROAD COMPANY,
Defendant.
“Insufficient Service, DeKalb Avenue Line at
Borough Hall.”

Case No. 281,
Discontinuance Order.
December 21, 1909.

Ordered, That the above-entitled proceeding be and the same hereby is discontinued.

Interborough Rapid Transit Company.—Service on Sixth Avenue Elevated line.

Case No. 266

Suspension Order
Extension Order

This proceeding was begun in December, 1907, on motion of the Commission to inquire whether the service of the company on its Sixth Avenue Elevated line was reasonable and adequate, and more particularly to determine whether the service on said line should not be increased by operating more cars past 50th Street station southbound during the morning rush hours and northbound during the evening rush hours. Hearings were held in 1907 and 1908 and Final Order No. 266 was issued, which required an increase in the number of cars operated past the 50th Street station both north and south-bound. On December 11, 1908, the Commission issued an order modifying Final Order No. 266. On May 28th the Commission issued the following order:

In the Matter
of the
Hearing on motion of the Commission on the question of improvement in and additions to the service and equipment of the INTERBOROUGH RAPID TRANSIT COMPANY.

“Service on the Sixth Avenue Elevated Line.”

Case No. 266,
Suspension Order.
May 28, 1909.

Ordered, That order modifying final order herein made December 11, 1908, relating to the service of the Interborough Rapid Transit Company on its Sixth Avenue Elevated line, be and the same hereby is suspended from date to September 15, 1909.

CASE NO. 266, EXTENSION ORDER.
(September 21, 1909.)

The Interborough Rapid Transit Company having made application in writing, dated September 20, 1909, for a further suspension of order modifying final order known as No. 266, adopted in the above-entitled matter on December 11, 1908, and sufficient reason appearing therefor, it is

Ordered, That the order modifying final order known as No. 266, adopted on December 11, 1908, relating to the service of the Interborough Rapid Transit Company on its Sixth Avenue Elevated line, be, and the same hereby is, further suspended from September 15, 1909, to September 25, 1909.

Interborough Rapid Transit Company.—Service on Third Avenue Elevated line.

Case No. 337

This proceeding was begun in 1907 on motion of the Commission to inquire whether the service of the company on its Third Avenue Elevated line was reasonable and adequate, and more particularly to determine whether the service on said line should not be increased by operating more cars past the 34th Street station southbound during the morning rush hours and past the 42d Street station northbound during the evening rush hours. Hearings were held in 1907 and 1908 and Final Order No. 221 was issued, which required an increase in the number of cars operated past 34th Street station southbound during the morning rush hours, and past the 42d Street station northbound during the evening rush hours. On May 28, 1909, the Commission issued the following order:

In the Matter
of the
Hearing on motion of the Commission on the question of improvement in and additions to the service and equipment of the INTERBOROUGH RAPID TRANSIT COMPANY.
“Service on the Third Avenue Elevated Line.”

Case No. 337,
Suspension Order.
May 28, 1909.

Ordered, That final order herein made March 31, 1908, relating to the service of the Interborough Rapid Transit Company on its Third Avenue Elevated line, be and the same hereby is suspended from date to September 15, 1909.

CASE NO. 337, EXTENSION ORDER.
(September 21, 1909.)

The Interborough Rapid Transit Company having made application in writing dated September 20, 1909, for a further suspension of final order known as No. 337, adopted in the above-entitled matter on March 13, 1908, and sufficient reason appearing therefor, it is

Ordered, That the final order known as No. 337, adopted on March 13, 1908, relating to the service of the Interborough Rapid Transit Company on its Third Avenue Elevated line, be, and the same hereby is, further suspended from September 15, 1909, to September 25, 1909.

Long Island Railroad Company.—Inadequate service on North Side Division between midnight and 4 A. M.

Case No. 679

Discontinuance Order

This proceeding was begun in 1908 upon the complaint of Byron R. Newton against the Long Island Railroad Company

alleging inadequate service on the North Side division between midnight and 4 A. M. A complaint order was issued in 1908, to which the company answered, a copy of which answer was sent to the complainant, and nothing further received from him. The Commission issued the following order:

<p>BYRON R. NEWTON, Complainant, <i>against</i> LONG ISLAND RAILROAD COMPANY, Defendant. — “Inadequate service on North Side Division between midnight and 4 A. M.”</p>	<p>Case No. 679, Discontinuance Order. December 21, 1909.</p>
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Ordered, That the above-entitled proceeding be, and the same hereby is, discontinued.

Metropolitan Street Railway Company.— Service on Eighth Street Crosstown line to Brooklyn.

Case No. 1015
Hearing Order
Final Order
Rehearing Order

STATEMENT BY COMMISSIONER MALTBIE.

COMMISSIONER MALTBIE: —

“I have before me a report made by the Transportation Bureau on the increase of service on the Eighth Street line to Brooklyn, as to which an order was passed to take effect on January 18. This report shows that the number of cars has been very materially increased. In fact, the number upon January 22 operated past a point of observation was double the number last March; and although there was an increase between March and November, yet the number in January was almost double the number in November. These figures show that the average loading per car has been reduced 25 per cent on the westbound traffic in the morning during a three-hour period, and some 40 per cent on the eastbound traffic at night during a three-hour period. It is also noticeable that during the three-hour period at night eastbound, 158 cars were operated past a point of observation, and in the morning westbound only 138 cars were operated past the point of observation. If the same number of cars had been operated westbound in the morning that were operated eastbound in the evening, the average loading would have been still further reduced, amounting to between 30 per cent and 35 per cent. There seems to be no reason why, if the receivers can operate 158 cars east at night, they cannot operate during the same time 158 cars west in the morning; and if they did so, the service would be still further improved.

"I wish to move, therefore, that a hearing be held under Case 1015 and 1016 to ascertain whether as many cars cannot be operated in the morning as are operated at night, and to ascertain why a still further improvement cannot be made. Apparently only five or six additional cars, or thereabouts, are necessary to give still better service and provide the service that is required under our order. It would seem that such a small number ought to be secured."

February 2, 1909.

Thereupon it was ordered, on February 2d (see blank form of hearing order, page 9), that a hearing be had February 4th, on the question of the compliance of the company with the terms of the said Final Order in Case No. 1015.

Hearings were held on February 4th, 9th and 10th.

The company having made application in writing, dated March 9, 1909, asking for a rehearing in respect to the matters contained in the final order, the Commission, on March 9th, directed that a rehearing be had on March 11th. Hearings were held March 11th and subsequently until March 25th. Thereafter the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service of the METROPOLITAN STREET RAIL-
WAY COMPANY and of Adrian H. Joline and
Douglas Robinson, as Receivers of said Company.

8th Street Crosstown Line to Brooklyn.

Under Order for Rehearing.

Case No. 1015,
Order after Rehearing.
March 26, 1909.

An order having been made by this Commission on December 29, 1908, in the above-entitled matter, and Adrian H. Joline and Douglas Robinson as Receivers of the Metropolitan Street Railway Company, having made application on March 9, 1909, for a rehearing in respect to the matters contained in said order, asking that the said order be changed and modified in certain respects, and a hearing having been held on March 11th, March 12th, March 17th, March 22d and March 25th before Mr. Commissioner Maltbie, presiding, Arthur DuBois, Esq., appearing for the Commission; Julius M. Mayer, Esq., appearing for the note holders of the issue of two million two hundred and fifty thousand dollars (\$2,250,000) of notes falling due May 1, 1909, of the Central Crosstown Road, and the Commission being of the opinion, after reconsideration of all the facts, that it is just, reasonable and proper that said order made December 29, 1908, should be amended in the manner hereinafter set forth.

It is hereby ordered. That said order of December 29, 1908, be and the same hereby is amended so that the said order as amended shall read as follows:

CASE NO. 1015, FINAL ORDER.

The Commission being of the opinion, after a hearing, held on December 14, 1908, before Mr. Commissioner Maltbie, that the regulations and service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as Receivers of the said company, on the Eighth Street Crosstown Line to Brooklyn, have been and are unreasonable, improper and inadequate, in that too few cars are operated on the said line,

Now, therefore, it is

Ordered, That the service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the Eighth Street Crosstown Line to Brooklyn, be increased, supplemented and changed in the following manner, that is to say:

By operating daily, including Sunday, eastbound on Christopher Street past the intersection of Christopher Street and Washington Street, on Eighth Street past the intersection of Eighth Street and Avenue A, and on Delancey Street at the westerly end of the Williamsburg Bridge, and westbound on Christopher Street past the intersection of Christopher Street and Washington Street, on Ninth Street past the intersection of Ninth Street and Avenue A, and on Delancey Street at the westerly end of the Williamsburg Bridge, during all hours of the day, except during the period from 12 o'clock midnight to 5 o'clock A. M., in each fifteen (15) minute periods, either

(a) A sufficient number of cars in each direction to provide at each of the points named above a number of seats at least equal to the number of passengers at such points; the number of cars passing each of the points named to be, however, never less than six (6) per hour in each direction; or

(b) A minimum number of fifteen (15) cars in one direction past each of the points named above.

Further ordered, That this order take effect April 5, 1909, and remain in effect for the period of two years from and after that date.

Further ordered, That Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, notify the Public Service Commission for the First District not later than April 1st, 1909, whether the terms of this order are accepted and will be obeyed.

Metropolitan Street Railway Company.—Service on 8th Street Crosstown line to East 10th Street ferry.

Case No. 1016

Statement by Commissioner Maltbie

Hearing Order

Rehearing Order

Final Order

See statement of Commissioner Maltbie in the preceding case (Case No. 1015), upon which it was ordered, on February 2d (see blank form of hearing order, page 9), that a hearing be had February 4th, on the question of the compliance by the company with the terms of the Final Order in Case No. 1016. Hearings were held February 4th, 9th and 10th. The company having made application for a rehearing as to the terms of said final

order a rehearing order (see blank form of hearing order, page 9) was issued on March 9th and hearings were held March 11th, 12th, 17th, 22d and 25th. The Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service of the METROPOLITAN STREET RAIL-
WAY COMPANY and of ADRIAN H. JOLINE
and DOUGLAS ROBINSON, as Receivers of said
Company.

Case No. 1016,
Order after Rehearing.
March 26, 1909.

8th Street Crosstown Line to East Tenth Street
Ferry.

Under Order for Rehearing.

An order having been made by this Commission on December 29, 1908, and Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, having made application on March 9, 1909, for a rehearing in respect to the matters contained in said order asking that said order be changed and modified in certain respects, and a hearing having been held on March 11, March 12, March 17, and March 25, 1909, before Mr. Commissioner Maltbie, presiding, Arthur DuBois, Esq., appearing for the Commission, and Julius M. Meyer appearing for the holders of notes of the Central Crosstown Road, falling due May 1, 1909, and the Commission being of the opinion after a reconsideration of all the facts, that it is just, reasonable and proper that said order made December 29, 1908, should be amended in the manner hereinafter set forth,

It is hereby ordered, That said order of December 29, 1908, be and the same hereby is amended so that the said order as amended shall read as follows:

CASE NO. 1016, FINAL ORDER.

The Commission being of the opinion, after a hearing, held on December 14, 1908, before Mr. Commissioner Maltbie, that the regulations and service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as Receivers of the said company, on the Eighth Street Crosstown Line to East Tenth Street Ferry, have been and are unreasonable, improper and inadequate, in that too few cars are operated on the said line,

Now, therefore, it is

Ordered, That the service of the Metropolitan Street Railway and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the Eighth Street Crosstown Line to East Tenth Street ferry be increased, supplemented and changed in the following manner, that is to say:

By operating daily, including Sunday, at all hours of the day and night, eastbound on Christopher Street past the intersection of Christopher Street and Washington Street, on Eighth Street past the intersection of Eighth Street and Avenue A, and westbound on Christopher Street past the intersection of Christopher Street and Washington Street, and on Ninth Street past the intersection of Ninth Street and Avenue A, in each fifteen (15) minute period, either

(a) A sufficient number of cars in each direction to provide at each of the points named above a number of seats at least equal to the number of pas-

sengers at such points; the number of cars passing each of the points named to be, however, never less than six (6) per hour in each direction; or

(b) A minimum number of ten (10) cars in one direction past each of the points above named.

Further ordered, That this order take effect April 5, 1909, and remain in effect for a period of two years from and after that date.

Further ordered, That Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, notify the Public Service Commission for the First District not later than April 1st, 1909, whether the terms of this order are accepted and will be obeyed.

Metropolitan Street Railway Company.— Service on 14th Street-Williamsburg Bridge line.

Case No. 1038

Hearing Order

Opinion of the Commission

Final Order

Order extending time

Rehearing Order

Final Order

Extension Order

A hearing order (see blank form of hearing order, page 9) was issued January 12, 1909, setting January 26th for a hearing. A hearing was held January 26th when another hearing order (see blank form of hearing order, page 9) upon the same matters but differing somewhat as to its terms and setting January 29th for a hearing was issued. Hearings were held January 29th and February 3d.

OPINION OF THE COMMISSION.

(Adopted February 9, 1909.)

COMMISSIONER MALTBIE: —

This case came before the Commission originally upon complaints of passengers. An investigation was made by our Bureau of Transportation in March and April of last year, which showed that the cars were greatly overcrowded and that the service was almost as bad as anywhere in the city. Hearings were held to ascertain if there was any reason why increased service should not be ordered; and while these hearings were in progress, the receivers requested that an adjournment be taken to enable them to make a thorough investigation. Later they suggested that no formal order be issued and stated that they would endeavor voluntarily to make improvements.

In November and December our inspectors again examined and reported upon the service on the 14th Street lines. This inspection showed that, although the number of cars operated had been increased, the overcrowding was even greater than before, and that the postponement urged had been

productive of no appreciable relief. In view of these facts, it seemed to the Commission that an order ought to be issued, and the hearings required by the statute have just been completed. The total number of hearings held in this case has been eight. At none of these has anyone representing the receivers appeared to present any evidence or to show that the observations of our inspectors are inaccurate, that the proposed form of order is in any way unreasonable, or that a considerable increase of service is unnecessary, and yet ample opportunity has been given.

The evidence presented in this case shows that the overcrowding upon this line — the 14th Street line to Brooklyn — has been extreme. The latest observations of our inspectors also show that the service was improved after the orders for hearings were adopted by the Commission; but even as late as January 27th, there were periods in the morning and evening when the average car, seating thirty-three persons, carried over seventy; and in one fifteen minute period, there were nearly three passengers for every seat; ninety-two in every car upon the average, and some cars were still more crowded. In some of these very periods the receivers were operating a smaller number of cars by over 30 per cent than they did operate in other fifteen minute periods.

The evidence further shows that for three hours during the evening 264 cars were operated past a point of observation; but in the morning, during a corresponding period only 204 cars were operated. The question naturally arises: If it were possible to run 264 cars in three hours in the evening, why was it not possible to run 264 cars during three hours in the morning? If the same number had been operated in the morning as in the evening, the average number of passengers per car would have been reduced from forty-seven to thirty-seven and the overcrowding would have been greatly reduced. None of the inspectors was able to ascertain any reason why this should not have been done and the public thereby benefited. Apparently, when the traffic fell off, the number of cars was reduced and the maximum number was not put on until the congestion approached its maximum.

In a communication to the Commission, the receivers have offered as an excuse for inadequate service the statement that more cars are needed. But upon the line now under discussion, the full number of cars assigned to this line was not operated; cars were in the barns when they should have been in service. Consequently, the service could have been much improved without the purchase of an additional car.

More cars are needed to give adequate service, but with the present number of cars the crowding could be reduced simply by putting in service the entire number early in the morning, by keeping them in use until the rush hour period is entirely over and by following a similar method in the evening.

What excuse may be offered for the failure to provide sufficient cars to give adequate service upon this line at all hours? The Public Service Commissions Law requires that receivers, as well as corporations, shall provide sufficient cars to meet all requirements which may reasonably be anticipated unless relieved therefrom by order of the Commission. The conditions of traffic upon the 14th Street line have been known to the managers of the road for many months, certainly since last May. Yet the line is still greatly overcrowded, and no application has been made by the receivers for relief

from the requirements of statute. As a matter of fact, upon January 1, 1909, the lines now being operated by the receivers had 395 fewer electric cars than on January 1, 1907. The seating capacity of electric cars had decreased in these two years over 18,000, or nearly 15 per cent. Thus while street car traffic has been indecently congested, the number of cars for carrying the public has not only not been increased, but has been allowed to decrease considerably.

The statement has also been made that there is not sufficient cable capacity upon a portion of the line to run the required number of cars. The above provision regarding cars applies as well to motive power, and the necessary cables should have been installed long before this. However, as the receivers state that it will require four weeks to purchase and install the necessary cables, the order has been drawn to take effect fully upon March 15th, and until that time to require the receivers to run as many cars as their cable capacity will permit.

Owing to general traffic conditions at various points upon this line, it is not possible to operate a sufficient number of cars to give every passenger a seat, but the order requires as many cars to be run during rush hours as can be operated regularly. At other times, the number of seats shall at least equal the number of passengers in every fifteen minute interval. Certain points of observation are fixed, so that the Commission and the receivers may determine at any time whether the order is being obeyed.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission on the Question of Improvement in and Addition to the Service of the METROPOLITAN STREET RAILWAY COMPANY and of ADRIAN H. JOLINE and DOUGLAS ROBINSON, as Receivers of said Company.

“14th Street and Williamsburg Bridge Line.”

Under Order for Hearing, Case No. 1038.

Case No. 1038,
Final Order.
February 9, 1909.

The Commission being of opinion after a hearing held on January 29, 1909, and on February 3, 1909, before Mr. Commissioner Maltbie, that the regulations and service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as Receivers of said Company, on the 14th Street and Williamsburg Bridge Line have been and are inadequate in that too few cars are operated on said line, now therefore, it is

Ordered, That the service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the 14th Street and Williamsburg Bridge Line be increased, supplemented and changed in the following manner, that is to say:

By operating daily, including Sunday, eastbound and westbound on Marginal Street past the intersection of 15th Street, on 14th Street past the intersection of Eighth Avenue, on 14th Street at the intersection of Avenue A and on Delancey Street at the westerly end of the Williamsburg Bridge in each 15 minute period either

(a) A sufficient number of cars in each direction to provide at each of the points named above a number of seats at least equal to the number of passengers at such points; the number of cars passing each of the points named to be, however, never less than six (6) per hour in each direction; or

(b) From February 15, 1909. to March 15, 1909. inclusive, a minimum number of twenty-five (25) cars in one direction past each of the points named above, and on and after March 16, 1909, a minimum number of thirty (30) cars in one direction past each of the points named above.

Further ordered, That on Monday of each week the said Metropolitan Street Railway Company, and said Adrian H. Joline and Douglas Robinson, as its Receivers, give to the Public Service Commission for the First District notice in writing showing the maximum number of cars actually in service on the 14th Street and Williamsburg Bridge Line to Brooklyn at any one time in the morning and in the afternoon for each day of the preceding week, and giving for each morning and afternoon the length of time this maximum car service was maintained.

Further ordered, That this order take effect February 15, 1909, and remain in effect for a period of two years from and after that date.

Further ordered, That Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, notify the Public Service Commission for the First District not later than February 15, 1909, whether the terms of this order are accepted and will be obeyed.

Upon the representations made by the company that it would be impossible to comply with the terms of the foregoing order within the time limited, the Commission issued the following order:

CASE NO. 1038, ORDER EXTENDING TIME.
(February 16, 1909.)

Ordered, That the time of the company and receivers herein to put into operation a minimum of twenty-five (25) cars be extended to March 1st, 1909, and the time to put into operation a minimum of thirty (30) cars be extended to April 1st, as provided in Subdivision "B" of the Final Order herein; and that the time when the said Final Order shall take effect be extended to March 1st, and that the time of the said Receivers to notify the Commission whether the terms of the order so modified, are accepted and will be obeyed, be extended to March 1st, 1909.

The company made application for a rehearing and asked a further extension of time. The Commission, on March 1st, issued an order setting March 8th for a hearing and extending the time to comply with the final order to March 16th. Hearings were held March 8th, 11th, 12th, 17th, 22d and 25th. Thereafter the Commission issued the following order:

CASE NO. 1038, ORDER AFTER REHEARING.
(March 26, 1909.)

An order having been made by this Commission on February 9, 1909, in the above entitled matter and Adrian H. Joline and Douglas Robinson as Receivers of the Metropolitan Street Railway Company having made application on February 27, 1909, for a rehearing in respect to the matters con-

tained in said order asking that the said order be changed and modified in certain respects and a hearing having been held on March 11, March 12, March 17 and March 25, before Mr. Commissioner Maltbie, presiding, Arthur DuBois, Esq., appearing for the Commission. Julius M. Mayer, Esq., appearing for the note holders of the issue of two and one-quarter million dollars of notes falling due May 1, 1909, of the Central Crosstown road and the Commission being of the opinion, after a reconsideration of all the facts, that it is just, reasonable and proper that said order, made February 9, 1909, should be amended in the manner hereinafter set forth,

It is hereby ordered, That the said order of February 9, 1909, be and the same hereby is amended so that the said order as amended shall read as follows:

CASE No. 1038, FINAL ORDER.

The Commission being of the opinion after a hearing held on January 29, 1909, and on February 3, 1909, before Mr. Commissioner Maltbie, that the regulations and service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as Receivers of said Company, on the 14th Street and Williamsburg Bridge Line have been and are inadequate in that too few cars are operated on said line, now, therefore, it is

Ordered, That the service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the 14th Street and Williamsburg Bridge Line be increased, supplemented and changed in the following manner, that is to say:

By operating daily, including Sunday, eastbound and westbound on Marginal Street past the intersection of 13th Street, on 14th Street past the intersection of Eighth Avenue, on 14th Street at the intersection of Avenue A and on Delancey Street at the westerly end of the Williamsburg Bridge in each 15 minute period either

(a) A sufficient number of cars in each direction at all hours of the day and night to provide at each of the points named above a number of seats at least equal to the number of passengers at such points; the number of cars passing each of the points named to be, however, never less than six (6) per hour in each direction; or

(b) From April 5 to May 1, 1909, a minimum number of 22 cars during the morning hours and 25 cars during the evening hours in one direction past each of the points named above and on and after May 1, 1909, a minimum number of 22 cars during the morning hours and 30 cars during the evening hours in one direction past each of the points named above.

Further ordered, That on Monday of each week the said Metropolitan Street Railway Company, and said Adrian H. Joline and Douglas Robinson, as its Receivers, give to the Public Service Commission for the First District notice in writing showing the maximum number of cars actually in service on the 14th Street and Williamsburg Bridge Line to Brooklyn at any one time in the morning and in the afternoon for each day of the preceding week, and giving for each morning and afternoon the length of time this maximum car service was maintained.

Further ordered, That this order take effect April 5, 1909, and remain in effect for a period of two years from and after that date.

Further ordered, That Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, notify the Public Service Commission for the First District not later than April 1, 1909, whether the terms of this order are accepted and will be obeyed.

The company having, on April 30th, made application for a further extension, the Commission issued the following order:

CASE No. 1038, EXTENSION ORDER.

(May 4, 1909.)

Ordered, That the date of the taking effect of the provisions of section (b) of order after rehearing in Case No. 1038, in so far as the said section

calls for the operation on and after May 1, 1909, of a minimum number of twenty-two cars during the morning hours and thirty cars during the evening hours in one direction past each of the points named in the order, be and the same is hereby extended to May 21, 1909.

Metropolitan Street Railway Company.— Service on 14th Street and Christopher Street Ferry line.

Case No. 1039

Hearing Order

Discontinuance Order

This proceeding was begun on motion of the Commission to inquire into the adequacy or inadequacy of the service on the 14th Street and Christopher Street Ferry line of the Metropolitan Street Railway Company. The Commission, on January 12, 1909, issued an order (see blank form of hearing order, page 9) directing that a hearing be had. Hearings were held on January 26th and 29th. Thereafter the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service of the METROPOLITAN STREET RAIL-
WAY COMPANY and of Adrian H. Joline and
Douglas Robinson, as Receivers of such Company.

Case No. 1039,
Order of Discontinu-
ance.
May 21, 1909.

14th Street and Christopher Street Ferry Line.

A hearing order having been duly made by the Commission on January 12, 1909, on its own motion on the question of improvement of service on the 14th Street and Christopher Street Ferry Line, and said hearing having been duly held on January 26, 1909, and on certain adjourned dates, before Mr. Commissioner Maltbie, presiding, Arthur DuBois, Esq., appearing for the Commission, there being no appearance for the Metropolitan Street Railway Company, or for Adrian H. Joline and Douglas Robinson, as Receivers of such Company; and it appearing after said hearing that traffic on the 14th Street and Christopher Street Ferry Line was decreasing, and the Commission being of the opinion that it is inadvisable to direct an increase in the service on the said line at the present time, now, therefore,

It is ordered, That this proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission.

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order made January 12, 1909, or by the proceedings thereon.

Further ordered, That a copy of this order be served on the Metropolitan Street Railway Company and on its Receivers.

Nassau Electric Railroad Company.— Inadequate service on holidays and Sundays — Fulton Street line at Utica Avenue.

Case No. 312

This proceeding was begun in 1908 upon the complaint of Andrew A. Kirkpatrick against the company in regard to the service on holidays and Sundays on the Fulton Street line at Utica Avenue. The company answered stating that passenger counts made by it indicated that the Sunday schedule was adequate and that in so far as the complaint related to conditions which had existed on the morning of Washington's Birthday it had underestimated the requirements in train service, but, as soon as the conditions were noted, the schedules were increased accordingly.

The Commission issued the following order:

<p>ANDREW A. KIRKPATRICK, Complainant, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY, Defendant. — "Inadequate service on Holidays and Sundays — Fulton Street Line at Utica Avenue."</p>	<p>Case No. 312, Discontinuance Order. December 21, 1909.</p>
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Ordered, That the above entitled proceeding be, and the same hereby is, discontinued.

Nassau Electric Railroad Company.— Service on St. John's Place line.

Case No. 832

Rehearing Order
Order denying application
for modification
Extension Order

This proceeding was instituted in 1908 and a final order issued. The company made application for a rehearing. The Commission, on January 3, 1909, directed (see blank form of hearing order, page 9) that a hearing be had January 18th. A hearing was had on that date. Thereafter the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission on the Question of Regulations, Practices, Equipment, Appliances and Service of the NASSAU ELECTRIC RAILROAD COMPANY in respect to the St. John's Place Line.

Case No. 832,
Order Denying Application for Modification.
January 22, 1909.

An order, No. 832, having been made herein on or about the 11th day of November, 1908, under and pursuant to an order for a hearing, No. 764, made on the 6th day of October, 1908, and said order having been duly served upon the Nassau Electric Railroad Company, and said Company having applied in writing to this Commission for a rehearing upon said order and for a modification of its terms, and an order in Case No. 832 having been made herein on the 5th day of January, 1909, directing a hearing on the matters contained in said order, No. 832, and said rehearing having duly come before the Commission on the 18th day of January, 1909, Mr. Commissioner McCarroll presiding, Grosvenor H. Backus, Assistant Counsel for the Commission, attending, and Mr. Arthur N. Dutton appearing for the Company, and testimony having been taken, and the Commission having been of the opinion, after such rehearing, and after consideration of the facts, including those arising since the making of the order, No. 832, that there is no reason to abrogate, change or modify said order.

Now, therefore, on motion, duly seconded,

It is ordered, That the application of the Nassau Electric Railroad Company for a modification of said order in Case No. 832 be, and the said application hereby is, denied.

Further ordered, That this order shall take effect immediately, and that a copy of the same be served upon the Nassau Electric Railroad Company.

Upon application of the company for an extension of the time within which to comply with the terms of the above order, the Commission, on February 2d, extended (see blank form of extension order, page 8) the time to and including February 4, 1909.

Nassau Electric Railroad Company.— Service on 65th Street—86th Street line and on its Fifth Avenue line.

Case No. 1083

Hearing Order

Discontinuance Order

A hearing order (see blank form of hearing order, page 9) was issued March 2, 1909, setting March 8th for a hearing to determine what, if any, changes and increases in service ought reasonably to be made on each of the above mentioned lines.

Hearings were held March 8th and 9th. The Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on the Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the NASSAU ELECTRIC RAILROAD COMPANY in respect to its 65th Street-86th Street Line and its Fifth Avenue line.</p>	}	<p>Case No. 1083, Order of Discontinu- ance. May 11, 1909.</p>
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An order for a hearing having been duly made by the Commission on its own motion on March 2, 1909, on the question of improvement of service and equipment on the 65th Street-86th Street Line and the Fifth Avenue Line of the Nassau Electric Railroad Company, and said hearing having duly come on for a hearing on the 8th day of March, 1909, and by adjournment duly had on the 9th day of March, 1909, before Mr. Commissioner McCarroll, Grosvenor H. Backus, Esq., appearing for the Nassau Electric Railroad Company, and Arthur N. Dutton, Esq., appearing for the Nassau Electric Railroad Company, and it appearing to the Commission that the Nassau Electric Railroad Company has plans for effecting a considerable increase of service on its Fifth Avenue Line which will bring about a readjustment of traffic conditions in the locality served by the 65th Street-86th Street Line and the Fifth Avenue Line, and the Commission being of the opinion that it is inadvisable to order any other changes until the result of the proposed new plan of operation has been tested;

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued without prejudice to an order or orders for further hearing and action thereon by the Commission in respect to any of the matters covered by said hearing order, No. 1083, or by the proceedings thereon.

Further ordered, That this order be filed in the office of the Commission and that a copy thereof be served on the Nassau Electric Railroad Company.

Nassau Electric Railroad Company.—Service on Flatbush-Seventh Avenue line.

Case No. 1088
Hearing Order

This proceeding was begun on motion of the Commission to inquire into the service of the company on its Flatbush-Seventh Avenue line. The Commission, on March 9, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on March 15th. A hearing was held on March 15th. No further action in 1909.

New York City Railway Company.— Service on Christopher and East 23d Street Ferry line.

In the Matter.
of the
Hearing on the Motion of the Commission on the
Question of Improvement in and Addition to the
Service of the NEW YORK CITY RAILWAY
COMPANY and of ADRIAN H. JOLINE and
DOUGLAS ROBINSON, as Receivers of said
Company.

Christopher and East 23d Street Ferry Line.

Under Order for Hearing No. 454.

Case No. 454,
Order of Discontinuance.
May 21, 1909.

A hearing order, No. 454, having been duly made by the Commission May 1, 1908, on the question of improvement in service on the Christopher and East 23d Street Ferry Line operated by the receivers of the New York City Railway Company, and said hearing having been duly held on May 14, 1908, and on certain adjourned dates, before Mr. Commissioner Maltbie presiding, Arthur DuBois, Esq., appearing for the Commission, and there being no appearance for the New York City Railway Company or its receivers; and it appearing that on and after August 1, 1908, the said Christopher and East 23d Street Ferry Line was operated by the receivers of the Metropolitan Street Railway Company, and that the New York City Railway Company had no further interest in said line; and it further appearing that on January 12, 1909, an order for hearing, Case No. 1039, was made and directed to the receivers of the Metropolitan Street Railway Company in respect to the service on the 14th Street and Christopher Street Ferry Line, now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission. And it is further

Ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said Hearing Order No. 454, or by the proceedings thereon.

Further ordered, That a copy of this order be served on the New York City Railway Company and on Adrian H. Joline and Douglas Robinson, former receivers of the said company.

New York City Railway Company.— Service on 86th Street Crosstown line.

In the Matter
of the
Hearing on Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the NEW YORK CITY RAILWAY COMPANY and of ADRIAN H. JOLINE and DOUGLAS ROBINSON, as Receivers of said Company.

"86th Street Crosstown Line."

Case No. 463,
Discontinuance Order.
May 25, 1909.

A hearing having been had by and before the Commission in the above-entitled matter on May 19th, June 2d, June 9th and June 16th, 1908, Commis-

sioner Maltbie presiding, H. M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission and there being no appearances for said New York City Railway Company or for Adrian H. Joline and Douglas Robinson, as receivers of said company; and said hearing having been adjourned on said last-mentioned date subject to the call of the presiding Commissioner; and no further hearing in said matter having been called, and it appearing that on and after August 1, 1908, and to and including November 12, 1908, the said 86th Street Crosstown Line was operated by the receivers of the Metropolitan Street Railway Company and that from and since November 12, 1908, said 86th Street Crosstown Line has been operated in part by the receivers of the Metropolitan Street Railway Company and in part by the receivers of the Second Avenue Railroad Company; and it appearing that the New York City Railway Company and its receiver have no further interest in said line, now, therefore, it is

Ordered, That the said proceeding be and the same hereby is in all respects discontinued. And it is

Further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by the hearing order herein or by the proceedings thereon. And it is

Further ordered, That this order be filed in the office of the Commission and that a copy thereof be served on the New York City Railway Company and on William W. Ladd, receiver of said company, and on Adrian H. Joline and Douglas Robinson, former receivers of said company.

New York City Railway Company, Metropolitan Street Railway Company.—Service on Eighth Avenue line.

<p>In the Matter of the Hearing on Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the NEW YORK CITY RAILWAY COMPANY and of ADRIAN H. JOLINE and DOUGLAS ROBINSON, Receivers.</p>

Case No. 489,
Extension Order.
September 21, 1909.

“Service on the Eighth Avenue Line.”

Adrian H. Joline and Douglas Robinson, receivers of the Metropolitan Street Railway Company, having made application in writing, dated September 21, 1909, for a suspension of the final order known as No. 489, adopted in the above-entitled proceeding on May 12, 1908, in regard to the service on the Eighth Avenue Line, now operated by the Metropolitan Street Railway Company, and said Adrian H. Joline and Douglas Robinson as receivers, and sufficient reason appearing therefor, it is

Ordered, That the above-mentioned final order known as No. 489, adopted May 12, 1908, be and the same hereby is suspended during September 28 and 30, and October 2, 1909.

Sea Beach Railway Company.— Service on 65th Street—Sea Beach Surface line.

Case No. 1158

Complaint and Hearing Order
Final Order

This proceeding was begun upon the complaint of the Parkway Home Company, by Ollie Halling, President, and others against the company alleging inadequate service on its Sea Beach surface line. The Commission, on August 31, 1909, directed (see blank form of hearing order, page 8) that a hearing be had on September 17th. A hearing was had on September 17th. Thereafter the Commission issued the following order:

In the Matter of the Complaint of PARKWAY
HOME COMPANY, by OLLIE HALLING,
President,

against

SEA BEACH RAILWAY COMPANY.

Service on 65th Street—Sea Beach Surface Line.

Case No. 1158,
Final Order.
October 15, 1909.

A hearing order having been duly made by the Commission on August 31, 1909, upon the complaint of Parkway Home Company et al. v. Sea Beach Railway Company, and a hearing having been duly held before the Commission pursuant to said hearing order, on the 17th day of September, 1909, before Commissioner McCarroll, presiding, Mr. W. F. Menden appearing for said Sea Beach Railway Company, and Grosvenor H. Backus, Esq., Assistant Counsel for the Commission, attending, and the Commission being of opinion after the said hearing that said Sea Beach Railway Company does not run cars enough upon its 65th Street—Sea Beach Surface Line reasonably to accommodate the traffic offered for transportation to it, now, therefore,

It is ordered, That the Sea Beach Railway Company on and after the 25th day of October, 1909, operate an increased service on said 65th Street—Sea Beach Surface Line, daily except Sunday, by running cars on a scheduled headway of not more than ten minutes between cars during the hours between 6:30 A. M. and 9 A. M., and during the hours between 5 P. M. and 7 P. M.

And it is further ordered, That this order shall take effect immediately and remain in force until modified by the further order or orders of this Commission.

And it is further ordered, That within five days after service of this order upon it the Sea Beach Railway Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

South Brooklyn Railway Company and Nassau Electric Railroad Company.— Service on Union Street line.

Case No. 395
Discontinuance Order

This proceeding was begun in 1908 on motion of the Commission to inquire whether the service of the companies on their Union Street line was reasonable and adequate, and more particularly to determine whether the companies should be required to operate more cars from 9th Avenue and 20th Street to Borough Hall during the morning rush hours and more cars east bound leaving Borough Hall for 9th Avenue and 20th Street during the evening rush hours. Hearings were held in 1908 and on February 23, 1909. The Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on the Motion of the Commission on the Question of Improvement in and Addition to the Service and Equipment of the SOUTH BROOKLYN RAILWAY COMPANY and the NASSAU ELECTRIC RAILROAD COMPANY, in Respect to the Union Street Line.</p>	<p>Case No. 395, Discontinuance Order. February 26, 1909.</p>
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It is ordered, That this proceeding be and the same hereby is in all respects discontinued.

Staten Island Midland Railway Company.— Congested condition of Sunday service on the Concord-New Dorp line and the Concord-Port Richmond line.

Case No. 820
Final Order
Order modifying Final Order

This proceeding was begun in 1908 upon the complaint of H. W. Pope against the company alleging congested condition of Sunday service on its Concord-New Dorp and Concord-Port Rich-

mond lines. Hearings were held during 1908. The Commission issued the following order:

H. W. POPE,	Complainant,
<i>against</i>	
STATEN ISLAND MIDLAND RAILWAY COM- PANY,	Respondent.

Case No. 820,
Final Order.
February 9, 1909.

"Congested Condition of Sunday Service on the Concord-New Dorp Line and the Concord-Port Richmond Line."

After a hearing upon the complaint of H. W. Pope, dated October 5, 1908, and answer of the Staten Island Midland Railway Company, dated October 27, 1908, duly held before Mr. Commissioner McCarroll on November 13, November 16, November 23, November 30, December 8, December 16, December 21 and December 28, 1908, the Commission being of opinion that the regulations and service of the Staten Island Midland Railway Company on the St. George to Richmond Line have been and are inadequate in that too few cars are operated on the said line on Sundays between the hours of 9:00 and 11:00 A. M.,

Now, therefore, it is

Ordered, That the service of the Staten Island Midland Railway Company on the St. George to Richmond Line be increased, supplemented and changed in the following manner, that is to say:

By operating on Sundays both northbound and southbound on the Richmond Road past the intersection of the Clove Road, on Richmond Road past the junction of New Dorp Line and on the Richmond Road past the intersection of Garretson Avenue, Richmond, cars with sufficient frequency to provide at each of the points named above in one direction,

(1) In every three successive cars a total number of seats at least equal to the number of passengers presenting themselves for transportation on these cars at such point, or

(2) In every 30-minute period a total number of seats at least equal to the number of passengers at such point.

Further ordered, That this order shall take effect on the 20th day of February, 1909, and remain in force for a period of two years from and after the date of the taking effect of this order.

Further ordered, That the Staten Island Midland Railway Company notify the Public Service Commission for the First District not later than February 20, 1909, whether the terms of this order are accepted and will be obeyed.

CASE NO. 820, ORDER AMENDING AND MODIFYING FINAL ORDER.

(March 2, 1909.)

Whereas, It appears that final order made herein February 9, 1909, and served upon the Staten Island Midland Railway Company on February 9, 1909, does not accurately express the intention of the Commission;

Now, therefore, it is

Ordered, That the said order be and the same hereby is amended and modified *nunc pro tunc* by the insertion of the words "between the hours of nine and eleven A. M." in the fourth paragraph of the order following the phrase "By operating on Sundays," and that the said order as amended and modified read as follows:

FINAL ORDER CASE NO. 820, AFTER ORDER FOR HEARING NO. 820.

After a hearing upon the complaint of H. W. Pope, dated October 5, 1908, and answer of the Staten Island Midland Railway Company, dated October 27, 1908, duly held before Mr. Commissioner McCarroll on November 13, November 16, November 23, November 30, December 8, December 16, December 21 and December 28, 1908, the Commission being of opinion that the regulations and service of the Staten Island Midland Railway Company on the St. George to Richmond Line have been and are inadequate in that too few cars are operated on the said line on Sundays between the hours of 9:00 and 11:00 A. M.,

Now, therefore, it is

Ordered, That the service of the Staten Island Midland Railway Company on the St. George to Richmond Line be increased, supplemented and changed in the following manner, that is to say:

By operating on Sundays between the hours of 9:00 and 11:00 A. M., both northbound and southbound on the Richmond Road past the intersection of the Clove Road, on Richmond Road past the junction of New Dorp Line and on the Richmond Road past the intersection of Garretson Avenue, Richmond, cars with sufficient frequency to provide at each of the points named above in one direction,

(1) In every three successive cars a total number of seats at least equal to the number of passengers presenting themselves for transportation on these cars at such point, or

(2) In every 30-minute period a total number of seats at least equal to the number of passengers at such point.

Further ordered, That this order shall take effect on the 20th day of February, 1909, and remain in force for a period of two years from and after the date of the taking effect of this order.

Further ordered, That the Staten Island Midland Railway Company notify the Public Service Commission for the First District not later than February 15, 1909, whether the terms of this order are accepted and will be obeyed.

Union Railway Company of New York City.—Failure to operate cars between 1 A. M. and 5 A. M. on a twenty minute headway.

This proceeding was begun in 1908 upon the complaint of Frank J. Flynn against the company for failure to operate cars on its line, between 1 A. M. and 5 A. M., on a twenty-minute headway. The Commission issued the following order:

<p>FRANK J. FLYNN, Complainant, <i>against</i> UNION RAILWAY COMPANY AND FRED- ERICK W. WHITRIDGE, its Receiver, Defendants.</p>	<p>Case No. 517, Discontinuance Order. December 21, 1909.</p>
<p>“Failure to operate cars between 1:00 and 5:00 A. M. on a headway of twenty minutes.”</p>	

Ordered, That the above entitled proceeding be, and the same hereby is, discontinued.

Matters Relating Mainly to Manner of Operation.

Brooklyn Heights Railroad Company.— Crowded condition of cars of the Flatbush Avenue line.

Case No. 1057

Hearing Order
Complaint Order

This proceeding came up on the complaint of Thomas J. Crean against the company alleging a crowded condition of its cars on the Flatbush Avenue line. The Commission, on February 5, 1909, issued a complaint order (see blank form of complaint order, page 7) and on March 9th directed (see blank form of hearing order, page 8) that a hearing be had on March 15th. A hearing was had on that date. Nothing further done during 1909.

Brooklyn Heights Railroad Company.— Establishment of line from Greenpoint to Manhattan via the Williamsburg Bridge.

Case No. 1094

Complaint Order
Hearing Order
Opinion of the Commission
Dismissal Order

This proceeding arose upon the complaint of E. H. Hazelwood regarding the establishment of a line by the company from Greenpoint over the Williamsburg Bridge to Manhattan. The Commission, on April 6, 1909, issued a complaint order (see blank form of complaint order, page 7) and on April 27th directed (see blank form of hearing order, page 8) that a hearing be had on said complaint on May 4th. Hearings were held on said date and subsequently until June 11th.

OPINION OF THE COMMISSION.

(Adopted December 21, 1909.)

COMMISSIONER BASSETT: —

The need of a through route from the Greenpoint section of Brooklyn across the Williamsburg Bridge was presented to the Commission by the complaint herein. Complaint order was issued April 6, 1909, and after answer by the company hearings were held which were numerous attended by interested citizens.

There are only two routes running south through Greenpoint, one along Franklin Street and one on Manhattan Avenue. The former is roundabout and inconvenient for the traffic under consideration and therefore will not be considered. The route through Manhattan Avenue runs from its northerly terminus at Newtown Creek south to Nassau Avenue, where it divides into four routes traversing the Williamsburg section; namely, the Crosstown, Union Avenue, Lorimer Street and Graham Avenue lines. Of these lines the Crosstown is the most direct from Greenpoint to the Williamsburg Bridge. It is fair to assume that Greenpoint passengers use this line almost exclusively in going to Manhattan via the Williamsburg Bridge.

On May 18, 20, 24, 25 and 26, 1909, the Transportation Bureau made counts at the Brooklyn end of the Bridge to determine the amount of transferring between the Crosstown line and the bridge cars. During the rush hours and throughout the day approximately 25 per cent of the travel on this line crossed over the bridge. It was found that a ten-minute headway would take care of the traffic crossing the bridge in rush hours, and during the non-rush hours a thirty-minute interval would be sufficient. The headway on the Crosstown line is about three minutes. Observations were made on subsequent days and at other locations, with practically the same conditions noted. It was therefore concluded that the majority of Greenpoint travelers would prefer to take the Crosstown line and transfer rather than wait for such an infrequent through line service.

There was not sufficient evidence to justify the Commission in issuing an order for the establishment of a through route either for the Greenpoint section exclusively or the Greenpoint and Williamsburg sections combined. Upon my direction the Transportation Bureau began informal negotiations with the company for the purpose of discovering whether some other line might not furnish a satisfactory through route over the bridge. Investigations were again made in August and September and the matter was deferred until November, when the normal winter traffic might be observed. Pursuant to the conferences the company will establish on January 3d an experimental through route from Delancey Street over the Williamsburg Bridge to Greenpoint by way of the Crosstown line during the evening rush hours. If this service proves satisfactory it will be extended to the morning rush hours also. I therefore recommend that an order be issued dismissing the complaint. The transportation department will, however, give careful attention to the progress of the experimental service and bring about its increase as the traffic justifies.

Thereafter, the Commission issued the following order:

<div data-bbox="512 2405 1177 2498">E. H. HAZELWOOD, Complainant,</div> <div data-bbox="661 2498 802 2542"><i>against</i></div> <div data-bbox="243 2579 1217 2666">BROOKLYN HEIGHTS RAILROAD COMPANY, Defendant.</div>	<div data-bbox="1270 2480 1628 2604">Case No. 1094, Dismissal Order. December 21, 1909.</div>
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An order having been duly made herein by the Commission on April 27, 1909, directing that a hearing be had upon the complaint, and said order having been duly served upon the Brooklyn Heights Railroad Company, and

said hearing having been duly had in pursuance thereof before the Commission, Commissioner Bassett presiding, on May 4, 1909, and upon the several dates thereafter to which said hearing was duly adjourned, and it appearing that the Brooklyn Heights Railroad Company has undertaken to make an experiment of operating a through service from Greenpoint to Manhattan via the Williamsburg Bridge, such as is demanded by the complaint,

Now, therefore, it is

Ordered, That the complaint in this proceeding be and the same hereby is in all respects dismissed without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said complaint or by said order for hearing or by the proceedings thereon.

Brooklyn, Queens County and Suburban Railroad Company.—

Conditions at Cypress Hills transfer point, Crescent Avenue and Jamaica Avenue.

This proceeding was begun in 1908 upon the complaint of the Twenty-eighth Ward Board of Trade and the Union Course Board of Trade against the Brooklyn, Queens County and Suburban Railroad Company in respect to the conditions at the transfer point at Crescent Avenue and Jamaica Avenue and asking for a through service from Williamsburg to Jamaica. Hearings were held and a final order adopted in 1908. Subsequently the following order was issued:

TWENTY-EIGHTH WARD BOARD OF TRADE,
UNION COURSE BOARD OF TRADE,
Complainants,

against

BROOKLYN, QUEENS COUNTY AND SUBUR-
BAN RAILROAD COMPANY,
Defendant.

Case No. 855,
Extension Order.
March 12, 1909.

“Conditions at Cypress Hills Transfer Point,
Crescent Street and Jamaica Avenue.”

Ordered, That the time of the Final Order herein to take effect be extended to and including April 10, 1909.

Brooklyn Union Elevated Railroad Company.— Through service to Coney Island on Brighton Beach Division.

Case No. 760

Discontinuance Order

This proceeding was begun in 1908 upon the complaint of the Sheephead Bay Board of Trade against the Brooklyn Union

Elevated Railroad Company respecting through service to Coney Island on the Brighton Beach Division. A complaint order was issued in 1908. The Commission issued the following order:

SHEEPSHEAD BAY BOARD OF TRADE, Complainant, <i>against</i>	
BROOKLYN UNION ELEVATED RAILROAD COMPANY, Defendant.	Case No. 760, Discontinuance Order. December 21, 1909.
Through Service to Coney Island on Brighton Beach Division.	

Ordered, That the above entitled proceeding be and the same hereby is discontinued, without prejudice to an order or action thereon by the Commission in respect to any of the matters covered by the complaint and the answer herein or any proceedings thereon.

Brooklyn Union Elevated Railroad Company.— Stopping of trains at Consumers' Park.

Case No. 1067

Complaint Order
Hearing Order
Dismissal Order

This proceeding came up on the complaint of C. W. Congdon and others protesting against the practice of the company stopping all of its cars at Consumers' Park. The Commission, on February 19, 1909, issued a complaint order (see blank form of complaint order, page 7) and on March 5th directed (see blank form of hearing order, page 8) that a hearing be had on March 11th. A hearing was held on said date. The Commission issued the following order:

C. W. CONGDON and Others, Complainants, <i>against</i>	
BROOKLYN UNION ELEVATED RAILROAD COMPANY, Defendant.	Case No. 1067, Dismissal Order. May 14, 1909.
Stopping of Trains at Consumers' Park.	

An order having been duly made by the Commission upon March 5, 1909, in the above entitled proceeding directing that a hearing be had on the

matters contained in the complaint, and said order having been duly served on the complainants and on the defendant, and said hearing having been duly had in pursuance thereof before the Commission on March 11, 1909, Commissioner McCarroll presiding and C. W. Congdon appearing on behalf of the complainants and Grosvenor H. Backus, Esq., Assistant Counsel for the Commission, attending, and Mr. Arthur N. Dutton, Superintendent of Transportation for the Brooklyn Union Elevated Railroad Company, appearing for the defendant, and testimony having been taken, and it appearing to the Commission inadvisable at this time to discontinue the stopping of trains at Consumers' Park,

Now, therefore, it is

Ordered, That the complaint in this proceeding be and the same hereby is in all respects dismissed, and that this order be filed in the office of the Commission. And it is further

Ordered, That this order shall be without prejudice to an order or orders for further hearing and action thereon by the Commission in respect to any of the matters covered by said complaint or by the Order for Hearing in Case No. 1067, or by the proceedings thereon.

Brooklyn Union Elevated Railroad Company; Nassau Electric Railroad Company; South Brooklyn Railway Company and Sea Beach Railway Company.— Cutting off cars at 36th Street and at 74th Street.

Case No. 1176

Hearing Order

Opinion of the Commission

Final Order

This proceeding was begun on motion of the Commission following complaints from several persons in respect to the practice of the companies of cutting off their cars at 36th Street and at 74th Street, Brooklyn, instead of running these cars to their destination points. The Commission, on November 9, 1909, directed (see blank form of hearing order, page 9) that hearing be had on November 15th. Hearings were had on November 15th and 17th.

OPINION OF THE COMMISSION.

(Adopted November 23, 1909.)

COMMISSIONER MCCARROLL: —

The proceedings of which the accompanying order is the outcome were undertaken in the first instance as an investigation under Order No. 615, as to the practice of the Brooklyn Union Elevated Railroad Company and the Sea Beach Railway Company cutting off some cars from the rear of a number of the trains of the West End line during the rush hours at its 74th Street station.

Complaint was made by a large number of passengers on that line who had occupied the two rear cars of the train on one occasion (October 18th), and on being informed by the guard that these cars would be cut off, and being directed to move into the forward cars, refused to do so and insisted on being carried to destination, the train being bound for Coney Island. Notwithstanding their protest the cars were cut off and they were carried back to Park Row.

The method of operation by the railroad is objected to by a large number of passengers who travel over the line. Notwithstanding this the company continued to detach cars at this point, whereupon appeal was made to the Commission.

Following this preliminary investigation, formal hearings were held on November 15th and 17th. The testimony was to the effect that in many, if not all or most, of the instances in which the cars were cut off there were not accommodations in the other cars for all of the people who transferred from the rear cars which were detached. It also showed that the customary habit, which is difficult for the company to change, of the passengers crowding into the car immediately in front of those detached, and standing in the aisles, thus obstructing them, rendered it very difficult and often impossible for those who would to pass forward into the cars ahead in which there might be more room. Many were, therefore, compelled to alight from the cars and pass on the platform. This caused much inconvenience, not unaccompanied with some danger, the more because for some time the electric light was cut off during the operation. The platform, also, is very narrow and insufficient for a number of people to pass.

The company contended that the cars were not intended to be cut off unless there was seating capacity in the forward cars, and stated that orders to the despatcher at that point were to this effect. It also represented that by cutting off the cars they were enabled to give a better service as the cars were returned to Park Row, or to the Bridge, to give additional service during the rush hours, and that they were needed for this purpose.

Careful observations were made by our Inspection Bureau. These show that in some instances there were some unoccupied seats in the first car or cars into which the passengers might have gone, but did not, and it seems difficult to cause them to do so. In many instances there was not accommodation.

There are thus presented two questions, first, as to the proper adequacy of the service; and, second, as to whether a service can be called proper which imposes upon passengers an enforced removal into other cars with the inconvenience involved.

The company contended that under the circumstances it should not be compelled to continue all the cars in the train beyond 74th Street, as they would then be operating more cars than necessary to accommodate the people. Conceding that the number of cars run would about accommodate the number of passengers on the train, and with seats, after detaching two at 74th Street, the consideration remains that there is actually a serious inconvenience entailed upon the passengers by being compelled to pass into forward cars through others much crowded, making the passage difficult and sometimes impossible, or necessitating a passage along the platform to reach the cars ahead. Thus it is a different situation from that at a station where passen-

gers can board a train from a platform and can reach any car without appreciably more inconvenience than another. It seems to me that this change involves discomfort and inconvenience that should not reasonably be expected and to which passengers ought not to be subjected.

The matter has also been examined into by Mr. Connette and is the subject of report from him, his conclusion being along the line of my own.

The accompanying Order was, therefore, submitted to the Commission and approved under this date.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission as to the
Equipment and Service of the BROOKLYN
UNION ELEVATED RAILROAD COMPANY, the
NASSAU ELECTRIC RAILROAD COMPANY,
the SOUTH BROOKLYN RAILWAY COMPANY
and the SEA BEACH RAILWAY COMPANY.

Case No. 1176,
Final Order.
November 23, 1909.

Cutting off Cars at 36th Street and 74th Street.

The Commission being of opinion after a hearing duly held on November 15 and November 17, 1909, before Mr. Commissioner McCarroll, presiding, J. T. Crabb, Esq., appearing for the Brooklyn Union Elevated Railroad Company and for the Nassau Electric Railroad Company, Arthur DuBois, Esq., attending for the Commission, that the regulations, equipment and service of the Brooklyn Union Elevated Railroad Company and the Nassau Electric Railroad Company on the West End Line on eastbound trains during certain hours of the day have been and are unreasonable, improper and inadequate in that cars are detached from crowded trains with resulting inconvenience to passengers,

Now, therefore, it is

Ordered, That the Brooklyn Union Elevated Railroad Company and the Nassau Electric Railroad Company be and they hereby are directed to run through at least to the Bath Beach station all cars on all West End trains destined for Coney Island which are scheduled to leave or which leave the Park Row terminus between the hours of 5:00 P. M. and 7:00 P. M. daily except Sunday.

Further ordered, That this order take effect on November 29, 1909, and remain in force until further order of the Commission.

Further ordered, That the Brooklyn Union Elevated Railroad Company and the Nassau Electric Railroad Company notify the Public Service Commission for the First District within five days after service of this order upon them whether the terms of this order are accepted and will be obeyed.

Metropolitan Street Railway Company.— Withdrawal of Service on Avenue A between 14th and 23d Streets.

This proceeding was begun in 1908 upon the complaint of the Eighteenth Ward Taxpayers' Association of the City of New York against the company by reason of its having withdrawn its service on Avenue A between 14th and 23d Streets. A complaint order was issued in 1908 to which the company replied that it

possessed no franchise for operating electric cars on Avenue A north from Fourteenth Street. The Commission issued the following order:

18TH WARD TAXPAYERS' ASSOCIATION OF
THE CITY OF NEW YORK, by CHARLES J.
BOHLEN, PRESIDENT, Complainant,

against

METROPOLITAN STREET RAILWAY COMPANY,
and ADRIAN H. JOLINE and DOUGLAS ROB-
INSON, RECEIVERS, Defendants.

Case No. 809,
Discontinuance Order.
February 23, 1909.

"Withdrawal of Service on Avenue A between 14th
and 23d Streets."

It is ordered, That the complaint herein be and the same hereby is dis-
continued.

Metropolitan Street Railway Company.— Delays in operation of
surface cars on 145th Street between Lenox and Eighth
Avenues.

Case No. 1042

Complaint Order

Hearing Order

Final Order

Order for rehearing

Order amending Final Order

This proceeding came up on the complaint of E. Grant Marsh against the company regarding delays in the operation of surface cars on 145th Street between Lenox and Eighth Avenues. The Commission, on January 19, 1909, issued a complaint order (see blank form of complaint order, page 7) and on February 26th directed (see blank form of hearing order, page 8) that a hearing be had on March 8th. A hearing was held on that date. Thereafter the Commission issued the following order:

E. GRANT MARSH,
Complainant,

against

METROPOLITAN STREET RAILWAY COMPANY
and ADRIAN H. JOLINE and DOUGLAS ROB-
INSON, its Receivers, Defendants.

Case No. 1042,
Final Order.
March 9, 1909.

After a hearing upon the complaint of E. Grant Marsh, dated January 15, 1909, and the answer thereto of Adrian H. Joline and Douglas Robinson, as

Receivers of the Metropolitan Street Railway Company, dated January 29, 1909, duly held before Mr. Commissioner Eustis on March 8, 1909, the said Metropolitan Street Railway Company and the said Adrian H. Joline and Douglas Robinson, its Receivers, having been duly served with notice of said hearing, but not appearing, the Commission being of the opinion that the regulations and service of the said company and its Receivers on the 145th Street Crosstown Line are inadequate in that too few cars are operated on said line, and said cars are operated irregularly and are delayed,

Now, therefore, it is

Ordered, That the service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the 145th Street Crosstown Line between Broadway and Lenox Avenue, be increased, supplemented and changed in the following manner, that is to say:

By operating daily, except Sunday, eastbound and westbound on 145th Street past every point of observation, not less than six cars every thirty minutes, except between the hours of 7:00 A. M. and 9:00 A. M. and the hours of 5:00 P. M. and 7:00 P. M., and between such hours then not less than ten cars every thirty minutes, and except between the hours of 1:00 A. M. and 5:00 A. M., and between such hours not less than two cars every thirty minutes.

Further ordered, That the said Metropolitan Street Railway Company and said Adrian H. Joline and Douglas Robinson, its Receivers, install, maintain and operate a cross-over on 145th Street just west of Lenox Avenue connecting the eastbound and westbound tracks on said street at the point where such a cross-over was formerly maintained by said company, and that said cross-over be completely installed and operated not later than April 10, 1909.

Further ordered, That after the installation of said cross-over the practice of operating eastbound cars arriving at the eastern terminus of the said 145th Street Line into Lenox Avenue, there to be switched onto the westbound track, be discontinued, and that thereafter all eastbound cars arriving at the eastern terminus of said line be switched back to the westbound track on the said cross-over to be installed on 145th Street just west of Lenox Avenue.

Further ordered, That this order shall take effect March 10, 1909, and remain in force until modified by the further order or orders of the Commission.

Further ordered, That within five days after service upon them of a copy of this order, said Adrian H. Joline and Douglas Robinson, as Receivers aforesaid, notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

The company having made application for a rehearing in respect to the matters contained in the final order, the Commission, on April 2d, directed (see blank form of hearing order, page 8) that a rehearing be had on April 8th. Hearings were had on April 8th and 15th. Thereafter, the Commission issued the following order:

CASE No. 1042, ORDER AMENDING FINAL ORDER.

(April 16, 1909.)

An order having been made by this Commission in the above entitled matter on March 9, 1909, and Adrian H. Joline and Douglas Robinson, as Receivers, having applied to the Commission for a modification of the terms of said order, and the Commission being of the opinion after a consideration of all the facts that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth,

It is hereby

Ordered, That the said order of March 9, 1909, be, and the same hereby is amended so that the said order as amended shall read as follows:

CASE NO. 1042, FINAL ORDER.

After a hearing upon the complaint of E. Grant Marsh, dated January 15, 1909, and the answer thereto of Adrian H. Joline and Douglas Robinson, as Receivers of the Metropolitan Street Railway Company, dated January 29, 1909, duly held before Mr. Commissioner Eustis on March 8, 1909, the said Metropolitan Street Railway Company and the said Adrian H. Joline and Douglas Robinson, its Receivers, having been duly served with notice of said hearing, but not appearing, the Commission being of the opinion that the regulations and service of the said company and its Receivers on the 145th Street Crosstown Line are inadequate in that too few cars are operated on said line, and said cars are operated irregularly and are delayed,

Now, therefore, it is

Ordered, That the service of the Metropolitan Street Railway Company and of Adrian H. Joline and Douglas Robinson, as its Receivers, on the 145th Street Crosstown Line between Broadway and Lenox Avenues, be increased, supplemented and changed in the following manner, that is to say:

By operating daily, except Sunday, eastbound and westbound on 145th Street past every point of observation a sufficient number of cars so that there shall never be a headway between cars of more than fifteen (15) minutes between 11:30 P. M. and 6:30 A. M.; of more than eight (8) minutes between 6:30 A. M. and 7:30 A. M.; of more than four (4) minutes between 7:30 A. M. and 9:00 A. M.; of more than five and one-third ($5\frac{1}{3}$) minutes between 9:00 A. M. and 5:00 P. M.; of more than four (4) minutes between 5:00 P. M. and 8:30 P. M., or of more than five and one-third ($5\frac{1}{3}$) minutes between 8:30 P. M. and 11:30 P. M.

Further ordered, That this order shall take effect April 20, 1909, and remain in force until modified by the further order or orders of the Commission.

Further ordered, That within three (3) days after service upon them of a copy of this order, said Adrian H. Joline and Douglas Robinson, as Receivers aforesaid, notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Nassau Electric Railroad Company.— Failure to stop cars at north end of bridge crossing Coney Island Creek.

Case No. 729

Order modifying Final Order
Extension Order

This proceeding was begun in 1908 upon the complaint of Sarah Emmons against the company for failure to stop its cars at the north end of bridge crossing Coney Island Creek. Hearings were held in 1908 and a final order issued in that year. The

company having applied for a modification of the terms of the order, the Commission, in 1909, issued the following order:

SARAH EMMONS,
Complainant,
against
NASSAU ELECTRIC RAILROAD COMPANY,
Defendant.

Case No. 729,
Order Modifying Final
Order.
August 6, 1909.

"Failure to stop cars at north end of bridge crossing Coney Island Creek."

An order known as Final Order No. 729, having been duly made in the above entitled matter on September 22, 1908, whereby the Nassau Electric Railroad Company is directed and required:

(1) To fix a safe and convenient point on the north side of the bridge crossing Coney Island creek at which northbound trolley cars will stop on signal of a person or persons desiring to board said cars at said point or on notice to the conductor of a passenger or passengers desiring to alight therefrom at said point.

(2) To make and enforce a rule requiring stops to be made accordingly.

(3) To continue in operation its present practice of stopping all southbound trolley cars on the north side of said bridge at the place then in use for that purpose.

And the Nassau Electric Railroad Company having applied to the Commission in writing under date of August 3, 1909, for a modification of the terms of said order; and it appearing that since the adoption of said Final Order No. 729 tracks connecting the West End and Sea Beach lines of the said Nassau Electric Railroad Company have been constructed and meet near the point where the surface cars make their northbound stop, as directed by said order, and sufficient reason for the modification of said Final Order No. 729 having been made to appear,

Now, therefore, it is

Ordered, That said Final Order No. 729 be and the same hereby is amended and modified so as to read as follows:

Ordered, That said Nassau Electric Railroad Company be and it hereby is directed and required:

(1) To fix and maintain a safe and convenient point on the north side of the bridge crossing Coney Island creek upon the line of said company known as the West End line, about 300 feet from the bridge abutments, as shown on the blue print attached to and filed with said application of the Nassau Electric Railroad Company of August 3, 1909, and marked "S. B. & W. E. Junction & Bridge," at which northbound and southbound trolley cars will stop on signal of a person or persons desiring to board said cars at said point or on notice to the conductor of a passenger or passengers desiring to alight therefrom at said point.

(2) To make and enforce a rule requiring stops to be made as hereinbefore provided at the point hereinbefore designated.

It is

Further ordered, That the changes above mentioned be put into effect on or before the 10th day of August, 1909, and continued in force until modified or abrogated by further order of the Commission. It is

Further ordered, That said Nassau Electric Railroad Company notify the Public Service Commission for the First District on or before August 9, 1909, whether the terms of said order as thus modified are accepted and will be obeyed.

The company, on August 11th, made application for an extension of time for complying with the above order for putting into effect the changes referred to. The Commission, on August 20th, extended (see blank form of extension order, page 8) such time to August 21, 1909.

Nassau Electric Railroad Company and South Brooklyn Railway Company.— Operation of Freight Cars on Marcy Avenue, Brooklyn.

Case No. 838

Opinion of the Commission
Final Order
Extension Orders

This proceeding was begun in 1908 upon the complaint of James J. Hunter against the companies by reason of the operation of a large number of ash cars on Marcy Avenue and also the worn condition of the tracks at a number of places on said street.

OPINION OF THE COMMISSION.
(Adopted January 12, 1909.)

COMMISSIONER BASSETT: —

At the hearings duly held in this matter after complaint and answer, it appeared that a considerable cause for complaint existed which was based on two grounds:

- (1) The operation of a large number of ash cars; and
- (2) The worn condition of the tracks at a number of places on Marcy Avenue.

The testimony shows that the ash cars were wholly discontinued on January 1, 1909, owing to the termination of the contract under which the railroad companies handled the ashes. It appears also that the other freight cars which will be operated over the Marcy Avenue line infrequently are not heavier or noisier than loaded passenger cars. As to the condition of the track, the inspection made by the Commission's expert clearly showed the necessity for extensive repairs to the track, and the representative of the railroad company conceded the necessity for such repairs. The final order which is submitted herewith and which is proposed for adoption is based upon the stipulation by the company's representative that the repairs directed in said order are reasonable and proper.

Thereupon the Commission issued the following order:

<p style="text-align: center;">JAMES J. HUNTER et al., Complainants, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY and SOUTH BROOKLYN RAILWAY COMPANY, Defendants.</p> <hr/> <p style="text-align: center;">“Operation of Freight Cars on Marcy Avenue.”</p> <hr/> <p style="text-align: center;">Under Order for Hearing Number 838.</p>	<p>Case No. 838, Final Order. January 12, 1909.</p>
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This matter coming on upon the report of the hearing had herein on the 30th day of November, 1908, and the adjournments thereof, and it appearing that the said hearing was duly held by and pursuant to an order of this Commission made November 17, 1908, after complaint and answer, and that the said order was duly served upon the Nassau Electric Railroad Company and the South Brooklyn Railway Company and that the said service was by them duly acknowledged, and that the said hearing was held by and before the Commission on the matters in said order specified on the 30th day of November, 1908, and by adjournment duly had on the 7th day of December, 1908, and by adjournment duly had on the 14th day of December, 1908, and by adjournment duly had on the 4th day of January, 1909, and at each of said sessions Mr. Commissioner Bassett, presiding, Grosvenor H. Backus, Esq., Assistant Counsel to the Commission, attending and Mr. Arthur N. Dutton appearing for said Nassau Electric Railroad Company and said South Brooklyn Railway Company, and proof being taken,

Now, it being made to appear after the proceedings on said hearing that the regulations, equipment and service of the Nassau Electric Railroad Company on its Marcy Avenue Line in the Borough of Brooklyn, City of New York, with respect to the transportation of persons and property, are unreasonable, improper and inadequate and that repairs and improvements to and changes in the tracks, switches and other property of said company and additions thereto ought reasonably to be made in the manner below set forth, and it being made to appear after said proceedings that the repairs, changes, additions and improvements to equipment, appliances, tracks and other property of said company as hereinafter set forth are such as will be just, reasonable and proper and ought reasonably to be made in order to promote the security and convenience of the public and to secure adequate facilities for the transportation of passengers, and that such changes, additions and improvements ought reasonably to be made on or before the respective dates hereinafter specified;

Therefore, on motion duly made and seconded,

It is hereby ordered: (1) That said Nassau Electric Railroad Company undertake at once and complete by or before the 15th day of March, 1909, the systematic repair of all defective joints throughout its tracks in Marcy Avenue;

(2) That by or before the 15th day of April, 1909, said company put in new crossings at DeKalb Avenue and at Halsey Street on its Marcy Avenue Line and either put in a new crossing at Park Avenue and Marcy Avenue or put the present crossing at the intersection of Marcy Avenue and Park Avenue in a state of first-class repair, and

It is further ordered, That this order shall take effect immediately and continue in force until modified by the further order or orders of this Commission, and

It is further ordered, That on or before the 20th day of January, 1909, said Nassau Electric Railroad Company shall inform the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

The company, having made applications at various times for extensions of time, the Commission granted (see blank form of extension order, page 8) the extensions up to and including June 15, 1909.

New York City Interborough Railway Company.— Discontinuance of service on line which formerly ran up Southern Boulevard from One Hundred and Eightieth Street, over One Hundred and Eighty-ninth Street and Aqueduct Avenue to Washington Bridge.

Case No. 1025

Hearing Order

This proceeding was begun in 1908 upon the complaint of John Haut and others against the company for discontinuing service on the company's line which formerly ran up Southern Boulevard from One Hundred and Eightieth Street, over One Hundred and Eighty-ninth Street and Aqueduct Avenue to Washington Bridge. A complaint order was issued in 1908. The Commission, on January 5, 1909, directed (see blank form of hearing order, page 8) that a hearing be had on January 20th. Hearings were had on January 20th and 23d. Thereafter the Commission issued the following order:

JOHN HAUT and Others, Complainants, <i>against</i> NEW YORK CITY INTERBOROUGH RAILWAY COMPANY, Defendant.	}	Case No. 1025, Final Order. January 26, 1909.
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This matter coming on upon the report of hearing had herein on January 20th and January 23d, 1909; and it appearing that this hearing was had pursuant to Hearing Order in Case No. 1025, dated January 6, 1909, and returnable on January 20, 1909; and it appearing that said Hearing Order was issued after complaint made by John Haut and others and after the answer

of said New York City Interborough Railway Company thereto; and it appearing that said Hearing Order was duly served on said New York City Interborough Railway Company, and that such service was by said Company duly acknowledged; and it appearing that said hearing was had by and before the Commission on the dates aforesaid before Mr. Commissioner Eustis presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, H. M. Powell, attorney, appearing for complainants, and A. J. Kenyon, Esq., and T. L. Waugh, Esq., attorneys, appearing for said New York City Interborough Railway Company; and it having been made to appear after the proceedings on said hearing, that the service of said Company upon its lines, called by said Company its "Bronx Park Line" and its "Crosstown Line," in the Borough of The Bronx, City and State of New York, between Third and Pelham Avenues on the west, and Boston Road and 178th Street on the East, is inadequate in that said Company does not run cars enough upon said lines, and does not run said cars in a proper manner reasonably to accommodate the passenger traffic transported by said Company and offered for transportation to it, and does not operate its cars upon said lines upon a reasonable time schedule for the run, and that changes in said service ought reasonably to be made in the particulars following in order to accommodate and transport such traffic; and it having been made to appear after the proceedings on said hearing that it would be reasonable to require that such changes be put into effect on or before the 1st day of February, 1909.

Now, therefore, it is

Ordered: (1) That said New York City Interborough Railway Company be and it hereby is directed and required to change the method of routing and operating its cars on said lines between Third and Pelham Avenues on the west and Boston Road and 178th Street on the east so that cars shall be operated through between said points in both directions and passengers shall be carried through between said points in both directions without change at any intermediate point; the routing of the cars to be the same as that which obtained between said points prior to November 1, 1908, and as shown on said Company's tariff schedule No. 1, filed with the Commission October 1, 1908, and therein described as follows:

"Bronx Park Line, from Pelham and Third Avenue easterly on One Hundred and Eighty-ninth Street to Southern Boulevard, southerly on Southern Boulevard to One Hundred and Eightieth Street, easterly on One Hundred and Eightieth Street to Boston Road."

(2) That between the hours of 5:30 A. M. and 12 o'clock midnight said Company operate cars over said route and between said points in each direction at intervals of not more than twelve (12) minutes.

(3) That between the hours of 12 o'clock midnight and 2 o'clock A. M. said Company operate cars over said route and between said points in each direction at intervals of not more than twenty-four (24) minutes.

(4) That the changes aforesaid be put into effect on or before the 1st day of February, 1909.

(5) That this order shall take effect immediately and shall continue in force until the 1st day of May, 1909.

(6) That the said Company be and hereby is authorized to make the changes in routes as hereinbefore ordered upon filing and publishing, as provided by Tariff Circular No. 1, at least three days in advance of said February 1, 1909, a supplement which shall bear the following notation: "Issued under special permission of the P. S. C.—1—Order in Case No. 1025 of January 26, 1909."

(7) That said New York City Interborough Railway Company notify the Public Service Commission for the First District on or before January 29, 1909, whether the terms of this order are accepted and will be obeyed.

**Ocean Electric Railway Company.— Inadequate service on the
Belle Harbor Extension.**

Case No. 1129

Complaint and Hearing Order
Opinion of the Commission
Discontinuance Order

This proceeding came up on the complaint of Nathan Fernbacher, alleging failure of the company to connect with the trains during the evening. The Commission, on July 2, 1909, issued a complaint and hearing order. A hearing was held on July 16th.

OPINION OF THE COMMISSION.

(Adopted September 14, 1909.)

COMMISSIONER MCCARROLL: —

This is a proceeding upon the complaint of Nathan Fernbacher against the Ocean Electric Railway Company for alleged inadequate service on the line known as the Belle Harbor Extension. This line runs from Dover Avenue at the western end of Belle Harbor, easterly along Newport Avenue to Lincoln Avenue, southerly through Lincoln Avenue to Washington Avenue, thence easterly along Washington Avenue, passing the Long Island Railroad Station at Fifth Avenue, and along the Boulevard to a terminus at Atlantic Park between Arverne and Hammels. For a portion of this distance the Far Rockaway cars of the Ocean Electric Railway Company use the tracks in common with the Belle Harbor cars. The Far Rockaway cars start at the corner of Lincoln and Washington Avenues and proceed along Washington Avenue and the Boulevard as far as Fairview Avenue and the Boulevard, where they turn to the north and proceed to Far Rockaway. The residents of Belle Harbor, who do not live within walking distance of the station, rely upon these two lines of cars in traveling to and from the city, to carry them between their homes and the station. On the Belle Harbor line one car is operated. This car leaves Dover Avenue on the hour until after 8 P. M., when it leaves on the half hour. The running time for the trip between the termini of the line is twenty minutes, with a ten minute stand at each end. The gist of the complaint is that this car fails to connect with the Long Island Railroad trains arriving at the station in the evening, to the inconvenience of Belle Harbor residents who are compelled, in order to reach their homes, either to wait a long period of time for a car or to walk. The complainant concedes that the train connections made by the cars in the morning are satisfactory. But he desires an increased service during the evening.

It appears, however, that the Company, under permission granted by this Commission, is at present engaged in laying a double track road from Washington Avenue along Fifth Avenue to Newport Avenue, thence along Newport Avenue to Lincoln Avenue, where it will connect with the present tracks

upon Newport Avenue. When these tracks are completed the Company intends to run all its Far Rockaway cars to Dover Avenue. This will remove all grounds for such complaints as the present one. These cars cannot be run through now because they are too large to be operated around the curve from Washington Avenue into Lincoln Avenue. Even if they should not run through until next spring, however, the present service would be adequate during the winter, as the complainant testified that only a dozen or fifteen people reside in Belle Harbor during the winter months.

The only question, therefore, is whether conditions warrant an order directing an increase of service during the evening for the next two months to provide better connections with the Long Island Railroad trains for the benefit of Belle Harbor residents coming from New York. The complainant and the only two witnesses who testified with him in support of his complaint, all live within reasonable walking distance of the terminus of the Far Rockaway line at Lincoln and Washington Avenues. If they miss the Belle Harbor car at the station, therefore, they can take one of the Far Rockaway cars, which in the evening run upon a seven and one-half minute headway, to within reasonable distance of their homes.

The evidence shows that it costs the Company thirty dollars a day to operate the Belle Harbor line and the receipts are only fifteen dollars. There was no feasible method suggested of increasing the service without largely increasing the expense, with no reasonable expectation that the receipts would be any greater than at present. It was suggested that the Belle Harbor car be operated as a shuttle service between the station and Dover Avenue, making one or two trips a day to Atlantic Park to hold the franchise for that end of the line. This would not increase the expense; but it would leave the Atlantic Park end without any service during the rest of the day.

This line is being now operated at a loss; any increase in the service would entail a still greater loss, it being a very sparsely settled neighborhood. It cannot be said that the travel would justify an order for increase at present, and furthermore the complainant is reasonably accommodated by the present service; while the improvements now under way will soon remove all ground for objection. I am of the opinion, consequently, that these proceedings should be discontinued and submit an order to that effect herewith.

Thereupon the Commission issued the following order:

In the Matter
of the
Complaint of NATHAN FERNBACHER
against
OCEAN ELECTRIC RAILWAY COMPANY.

“Service on the Belle Harbor Extension.”

Case No. 1129,
Discontinuance Order.
September 14, 1909.

An order known as Complaint and Hearing Order having been duly made by the Commission in the above entitled matter on July 2, 1909, and a hear-

ing having been held pursuant to said order on July 16, 1909, Mr. Commissioner McCarroll presiding, H. A. Butler, Esq., Assistant Counsel, attending for the Commission, and C. L. Addison, Esq., appearing for the Ocean Electric Railway Company, and it appearing that the Ocean Electric Railway Company is constructing a new double-track line to run from the Boulevard and Fifth Avenue through Fifth Avenue to Newport Avenue and thence along Newport Avenue to Belle Harbor,

It is ordered, That the above entitled proceeding be, and the same hereby is, discontinued.

Sea Beach Railway Company.— Failure to stop local trains at Avenue S.

This proceeding was begun in 1908 upon the complaint of J. J. Kelly and others against the company for failure to stop cars at Avenue S. A hearing was held in 1908. The Commission issued the following order:

<p>J. J. KELLY and Others, Complainants, <i>against</i> SEA BEACH RAILWAY COMPANY, Defendant.</p>	<p>Case No. 1008, Final Order. February 16, 1909.</p>
<p>“Failure of local trains to stop at Avenue ‘S.’”</p>	

After a hearing upon the complaint of J. J. Kelly and others and the answer of the Sea Beach Railway Company thereto, duly held before Mr. Commissioner McCarroll on the 30th day of December, 1908, the Commission being of the opinion that the service of said Sea Beach Railway Company on the line of said company in the Borough of Brooklyn, City and State of New York, is inadequate, in that said company fails to stop any trains at Avenue “S” between Avenue “U” and Kings Highway on said line; and the Commission being of the opinion that said company should be required to establish a station stop at Avenue “S” and to stop its local trains at that point on signal; and the Commission being of the opinion that the time hereinafter mentioned would be a reasonable time within which to direct that said station stop be established;

Now, therefore, it is

Ordered, That the said Sea Beach Railway Company be and it hereby is directed and required to establish a stop at Avenue “S” between Avenue “U” and Kings Highway on its line, in the Borough of Brooklyn, City of New York, and to stop its local trains at said Avenue “S” on signal, for the accommodation of persons desiring to board trains at that point, and also for the accommodation of persons desiring to leave trains at that point.

It is further ordered, That this order shall take effect on the 23d day of February, 1909, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

It is further ordered, That said Sea Beach Railway Company notify the Public Service Commission for the First District, on or before February 20, 1909, whether the terms of this order are accepted and will be obeyed.

The company having made application for an extension of time within which the final order should take effect, the Commission, on March 2d, extended (see blank form of extension order, page 8) such time to March 25, 1909.

Union Railway Company of New York City.— Failure to run cars of the White Plains Avenue line north to the City Line.

This proceeding was begun in 1908 upon the complaint of C. E. Arnold against the company by reason of alleged failure to run cars of the White Plains Avenue line north to the City line. The Commission issued the following order:

<p>C. E. ARNOLD, Complainant, <i>against</i> UNION RAILWAY COMPANY OF NEW YORK CITY and FREDERICK W. WHITRIDGE, Its Receiver, Defendants.</p>	<p>Case No. 848, Discontinuance Order. January 15, 1909.</p>
<p>“ Failure to run cars of the White Plains Avenue Line north to the City Line.”</p>	

An order in Case No. 848 having been made herein on or about the 20th day of November, 1908, ordering and directing the Union Railway Company of New York City and Frederick W. Whitridge, its receiver, to answer the complaint herein within a time therein specified, and the said receiver having, on November 21, 1908, made answer thereto, and the complainant having, under date of January 8, 1909, expressed his satisfaction with the practice adopted by the company of operating its cars on the White Plains Road north to 243d Street,

Now, on motion made and duly seconded, it is

Resolved, That the proceedings herein be, and the same hereby are, discontinued.

Union Railway Company of New York City.— Service on White Plains Avenue and Morris Park Avenue lines.

Case No. 1089

Complaint Order
Dismissal Order

This proceeding came up on the complaint of James J. Mulkeon against the company requesting an inquiry to determine whether the service of the company should not be changed by running all cars from One Hundred and Twenty-eighth Street up Boston Road to West Farms to the terminal of the Morris Park Avenue line at the same intervals for day and night schedules as these cars are now operated instead of running only a few cars during the day to the Morris Park Race Track and discontinuing running cars to that point at night. The Commission, on March 15, 1909, issued a complaint order (see blank form of complaint order, page 7). The company answered that the change in service was unnecessary due to lack of traffic in that section, and that they were operating under an order of the Commission, dated November 27, 1907, and that as soon as proposed improvements in Morris Park Avenue were completed by the City, they would run all their West Farms cars from One Hundred and Twenty-eighth Street to Morris Park Avenue terminal during rush hours and would operate a sufficient number to maintain their schedule. The Commission issued the following order:

JAMES J. MULKEON,	}	Case No. 1089, Dismissal Order. May 7, 1909.
Complainant,		
<i>against</i>		
UNION RAILWAY COMPANY and FREDERICK W. WHITRIDGE, Its Receiver,	}	
Defendants.		
<hr style="width: 20%; margin: 0 auto;"/> <p>"Service on White Plains Avenue and Morris Park Avenue Lines."</p>		

Ordered, That the complaint in this proceeding be, and the same hereby is, in all respects dismissed, and that this order be filed in the office of the Commission.

Matters Relating Mainly to Service and Equipment

Brooklyn Heights Railroad Company et al.—Use of one-third vestibule cars.

Case No. 1150

Complaint Order
Extension Orders
Hearing Order

This proceeding was begun upon the complaint of the Knights of Labor against the companies complaining of the use of one-third vestibule cars. The Commission, on August 20, 1909, issued a complaint order (see blank form of complaint order, page 7). Certain of the companies having made written applications for extensions of time, the Commission, on August 31st, extended the time of the following companies for satisfaction or answer to September 10th (see blank form of extension order, page 8):

Brooklyn Heights Railroad Company;
Nassau Electric Railroad Company;
Coney Island and Gravesend Railway Company;
Brooklyn, Queens County and Suburban Railroad Company;
South Brooklyn Railway Company;
Sea Beach Railway Company;
Van Brunt Street and Erie Basin Railroad Company;
Bush Terminal Railroad Company;
New York and Queens County Railway Company;
Long Island Electric Railway Company;
New York and Long Island Traction Company;
Ocean Electric Railway Company.

Time of the following companies extended to September 16th.

Long Island Electric Railway Company;
New York and Long Island Traction Company;
New York and Queens County Railway Company.

The Commission, on October 1st, directed that a hearing be had on October 12th (see blank form of hearing order, page 8). Hearings were held on October 12th, November 16th and November 23d, when the matter was adjourned to February 10, 1910.

**Brooklyn Union Elevated Railroad Company.— Ventilation of
trains on Fifth Avenue Elevated line.**

Case No. 771

Opinion of the Commission

Final Order

Extension Order

Order modifying Final Order

This proceeding was begun in 1908 and hearings held during that year.

OPINION OF THE COMMISSION.

(Adopted February 16, 1909.)

COMMISSIONER MCCARROLL: —

In the hearing on Order No. 771 testimony was given as to the very bad ventilation in cars of certain types operated by the Brooklyn Union Elevated Railroad Company on its Fifth Avenue Elevated lines. These are mostly, or all, cars of convertible type, being used as open cars in the summer and adjusted for use as closed cars in winter. The only means of ventilation are some openings in the roof in which pipes are placed and these are entirely inadequate, the testimony establishing that the air in these cars is vitiated to an unbearable degree and dangerous to health. In addition to this, in bad weather the rain or snow is admitted, producing a very great discomfort. This condition should not have been allowed to continue.

This evidence was not controverted by the defendants. Indeed, the facts are virtually admitted as stated.

I have thought it best to make this the subject of a separate order of itself, which I now submit, with a resolution as follows:

Resolved, That the accompanying order in case No. 771, being a final order on the matter of ventilation of certain cars, be and hereby is adopted as the order of the Commission.

Thereupon the Commission issued the following order:

<p>In the Matter</p> <p>of</p> <p>Hearing on Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the BROOKLYN UNION ELEVATED RAILROAD COMPANY in Respect to the Fulton Street and Fifth Avenue Elevated Line.</p> <p>Under Hearing Order No. 771.</p>	<p>Case No. 771, Final Order. February 16, 1909.</p>
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After a hearing duly held on October 15, 1908, October 16, 1908, and October 20, 1908, before Mr. Commissioner McCarroll, at which hearing the

Brooklyn Union Elevated Railroad Company, after notice, duly appeared, the Commission being of the opinion that the equipment, appliances and service of the Brooklyn Union Elevated Railroad Company in respect to the transportation of passengers are improper and inadequate in that a number of the cars used by said company which are described as cars of "Series 1000" and which have what is known as an "empire roof," are supplied with insufficient ventilators and are not properly protected against inclement weather,

Now, therefore, it is

Ordered, That the said Brooklyn Union Elevated Railroad Company commence at once to remodel and equip all of said cars of "Series 1000" and all of said cars that have an empire roof with similar devices and system of ventilating to those now in use on car No. 1008; and it is further

Ordered, That said company remodel and equip each of said cars of Series 1000 and each of said cars having an empire roof as rapidly as possible and complete such remodeling and equipment of all of said cars by or before the 15th day of April, 1909; and it is further

Ordered, That this order shall take effect immediately and continue in force until modified by the further order or orders of this Commission; and it is further

Ordered, That within five days after service upon it of a copy of this order said company notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

The Commission, on March 23d, issued an order extending (see blank form of extension order, page 8) the time the final order should take effect to March 31st.

The Commission issued the following order modifying the final order:

CASE No. 771, ORDER MODIFYING FINAL ORDER.

(March 26, 1909.)

Ordered, That the final order herein adopted February 16, 1909, be modified by changing the words "Car Number 1008" to "Car Number 1000" wherever occurring therein.

Interborough Rapid Transit Company.— Lack of heat on Elevated Cars.

Case No. 250

This proceeding was begun on motion of the Commission in 1908 and hearings were held during that year. Subsequently, the company wrote to the Commission enclosing a copy of instructions in regard to the maintenance of heat in the cars, and after investigations by the Commission regarding this matter, the following order was issued:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on Motion of the Commission as to the Regulations, Practices and Services of the INTERBOROUGH RAPID TRANSIT COMPANY.</p> <hr style="width: 20%; margin: 10px auto;"/> <p style="text-align: center;">"Lack of heat on elevated cars."</p>	<p>Case No. 250, Discontinuance Order, February 23, 1909.</p>
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It is ordered, That the said proceedings be, and the same hereby are, discontinued.

Long Island Railroad Company.— Use of platform gates, vestibule doors, side doors and trap doors on passenger cars.

Case No. 1192
Hearing Order

This proceeding was begun upon motion of the Commission to inquire concerning the practices of the company in regard to the use of platform gates, vestibule doors, side doors and trap doors on all of its passenger cars operated by electricity within the first district. On December 17, 1909, the Commission directed (see blank form of hearing order, page 9) that a hearing be had on December 29th. A hearing was had on said date and an adjournment taken until January 12, 1910.

Metropolitan Street Railway Company and Other Street Railroad Companies Operating within the First District.— Heating and heating regulations of closed cars.

Case No. 1170
Hearing Order
Final Order
Rehearing Order
Order denying abrogation of
portion of Final Order
Order for further hearing

This proceeding was begun on motion of the Commission to determine whether an order should be adopted, directing all street railroad corporations acting within the jurisdiction of the Commission to equip their cars with suitable heating apparatus from the 15th day of October to the 15th day of April in each year. The Commission, on October 13, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on October 25th.

Hearings were held on October 25th and subsequently until November 16th. The Commission issued the following order:

In the Matter
of the

Hearing on the Motion of the Commission on the Question of Improvements in the Service of the INTERBOROUGH RAPID TRANSIT COMPANY; METROPOLITAN STREET RAILWAY COMPANY and ADRIAN H. JOLINE and DOUGLAS ROBINSON, its Receivers; THIRD AVENUE RAILROAD COMPANY and FREDERICK W. WHITRIDGE, its Receiver; FORTY-SECOND STREET, MANHATTANVILLE AND ST. NICHOLAS AVENUE RAILWAY COMPANY and FREDERICK W. WHITRIDGE, its Receiver; DRY DOCK, EAST BROADWAY AND BATTERY RAILROAD COMPANY and FREDERICK W. WHITRIDGE, its Receiver; UNION RAILWAY COMPANY and FREDERICK W. WHITRIDGE, its Receiver; CENTRAL PARK, NORTH AND EAST RIVER RAILROAD COMPANY; SECOND AVENUE RAILROAD COMPANY and GEORGE W. LINCH, its Receiver; 28TH AND 29TH STREETS CROSSTOWN RAILROAD COMPANY and JOSEPH B. MAYER, its Receiver; NEW YORK CITY INTERBOROUGH RAILWAY COMPANY; WESTCHESTER ELECTRIC RAILROAD COMPANY and J. ADDISON YOUNG, its Receiver; SOUTHERN BOULEVARD RAILROAD COMPANY; PELHAM PARK RAILROAD COMPANY; CITY ISLAND RAILROAD COMPANY; KINGSBRIDGE RAILWAY COMPANY; YONKERS RAILROAD COMPANY and LESLIE SUTHERLAND, its Receiver; BROOKLYN HEIGHTS RAILROAD COMPANY; BROOKLYN, QUEENS COUNTY AND SUBURBAN RAILROAD COMPANY; SOUTH BROOKLYN RAILWAY COMPANY; BROOKLYN UNION ELEVATED RAILROAD COMPANY; NASSAU ELECTRIC RAILROAD COMPANY; SEA BEACH RAILWAY COMPANY; CONEY ISLAND AND GRAVESEND RAILWAY COMPANY; CONEY ISLAND AND BROOKLYN RAILROAD COMPANY; VAN BRUNT STREET AND ERIE BASIN RAILROAD COMPANY; BUSH TERMINAL RAILROAD COMPANY; NEW YORK AND QUEENS COUNTY RAILWAY COMPANY; BRIDGE OPERATING COMPANY; LONG ISLAND ELECTRIC RAILWAY COMPANY; NEW YORK AND LONG ISLAND TRACTION COMPANY; OCEAN ELECTRIC RAILWAY COMPANY; STATEN ISLAND MIDLAND RAILWAY COMPANY; RICHMOND LIGHT AND RAILROAD COMPANY, as Regards Heating and Heating Regulations with Respect to All Closed Cars Carrying Passengers Operated in the City of New York.

Case No. 1170,
Final Order.
November 19, 1909.

After a hearing duly held in the above entitled matter on due notice to all the companies and receivers above named before Mr. Commissioner Eustis

on October 25, 1909, November 4, 1909, and November 9, 1909, present Mr. J. L. Quackenbush, of Counsel for the Interborough Rapid Transit Company, Metropolitan Street Railway Company and Adrian H. Joline and Douglas Robinson, its receivers, New York City Interborough Railway Company, New York and Queens County Railway Company, Long Island Electric Railway Company, and New York and Long Island Traction Company; Mr. W. S. Menden, representing Brooklyn Heights Railroad Company, Brooklyn, Queens County and Suburban Railroad Company, South Brooklyn Railroad Company, Brooklyn Union Elevated Railroad Company, Nassau Electric Railroad Company, Sea Beach Railway Company, and Coney Island and Gravesend Railway Company; Mr. Herbert L. Bickford, of Counsel for Third Avenue Railroad Company and Frederick W. Whitridge, its Receiver, 42d Street, Manhattanville and St. Nicholas Avenue Railway Company and Frederick W. Whitridge, its Receiver, Dry Dock, East Broadway and Battery Railroad Company and Frederick W. Whitridge, its Receiver, Union Railway Company and Frederick W. Whitridge, its Receiver, Southern Boulevard Railroad Company and Kingsbridge Railway Company; Mr. T. J. Mullen, representing Richmond Light and Railroad Company and Staten Island Midland Railway Company; Mr. C. L. Addison, representing Ocean Electric Railway Company; Mr. Brainerd Tolles, of Counsel for Second Avenue Railroad Company and George W. Linch, its Receiver and Central Park, North and East River Railroad Company; Mr. E. L. Crum, representing Yonkers Railroad Company and Leslie W. Sutherland, its Receiver; Mr. S. W. Huff, representing the Coney Island and Brooklyn Railroad Company; and Mr. Henry H. Whitman, Assistant Counsel to the Commission;

It is ordered, That said companies and said receivers obey, observe and comply with the following directions or requirements:

HEATING REGULATIONS.

Electric Cars.

(1) All closed cars in service for the transportation of passengers between the 15th day of October and the 15th day of April in each year shall be equipped with suitable apparatus for heating by electricity.

(2) Every company shall during the period above named, whenever the outside temperature is less than forty degrees (Fahrenheit), maintain in all closed cars in service for the transportation of passengers a temperature of not less than forty nor more than sixty-five degrees above zero (Fahrenheit), unless the company is temporarily prevented from so doing by storm, accident or other controlling emergency for which it is not responsible and which is not due to any negligence on its part.

Horse Cars.

(1) All closed cars in service for the transportation of passengers between the 15th day of October and the 15th day of April in each year shall be equipped with suitable apparatus for heating.

(2) Every company during the period above named, whenever the outside temperature is less than forty degrees (Fahrenheit), shall maintain in all closed cars in service for the transportation of passengers a temperature of not less than forty nor more than sixty-five degrees above zero (Fahrenheit), unless the company is temporarily prevented from so doing by storm, accident or other controlling emergency for which it is not responsible and which is not due to any negligence on its part.

And it is further ordered, That a copy of such regulations relating to electric cars with the added words "By Order of the Public Service Commission for the First District" be displayed conspicuously in each of said closed electric cars and that a copy of such regulations relating to horse cars with the like addition be displayed conspicuously in each of said horse cars, both of such notices to be in a form approved by the Commission.

And it is further ordered, That this order shall take effect on the 10th day of December, 1909, and shall continue in force until modified or abrogated by

the Commission, except that said order shall not take effect as to the New York and Queens County Railway Company, Long Island Electric Railway Company and New York and Long Island Traction Company until the 10th day of January, 1910.

And it is further ordered, That each of said companies and said Receivers within five days after service upon them of this order notify the Commission in writing whether the terms of said order are accepted and will be obeyed.

Certain companies having made application for a rehearing as to that part of the order requiring the posting of notices, the Commission issued the following order:

CASE No. 1170, REHEARING ORDER.

(November 30, 1909.)

A final order in the above entitled matter having been made on the 19th day of November, 1909, and the Metropolitan Street Railroad Company and Adrian H. Joline and Douglas Robinson, its Receivers, South Brooklyn Railway Company, Sea Beach Railway Company, Brooklyn Heights Railroad Company, Brooklyn, Queens County and Suburban Railroad Company, Brooklyn Union Elevated Railroad Company, Coney Island and Gravesend Railway Company, Nassau Electric Railroad Company, Interborough Rapid Transit Company, Long Island Electric Railway Company, New York and Long Island Traction Company, New York City Interborough Railway Company, New York and Queens County Railway Company having severally made applications to the Commission for a rehearing in respect of a certain provision of said final order, requiring the posting of notices,

It is ordered, That said applications be and the same hereby are granted and that a rehearing be had in regard to said provision of said final order on the 2d day of December, 1909, at 4:00 o'clock in the afternoon or at any time or times to which the same may be adjourned at the rooms of the Commission, No. 154 Nassau Street, Borough of Manhattan, City and State of New York, to the end that the Commission may determine after consideration of the facts, including those arising after the making of said final order, whether said provision of said final order or any part thereof shall be abrogated, changed or modified; and

It is further ordered, That said applicant companies and said receivers be given at least one day's notice of said rehearing by service on said companies and said receivers, either personally or by mail, of a certified copy of this order and that at such rehearing said companies shall be afforded all reasonable opportunity of presenting evidence and examining and cross-examining witnesses as to the matters aforesaid.

A hearing was held on December 2d. Thereafter the Commission issued the following order:

CASE No. 1170, ORDER DENYING APPLICATIONS FOR ABROGATION OF PROVISION OF FINAL ORDER REQUIRING THE POSTING OF NOTICES.

(December 10, 1909.)

A final order in the above entitled matter having been made on the 19th day of November, 1909; and the Metropolitan Street Railway Company and Adrian H. Joline and Douglas Robinson, its Receivers; South Brooklyn Railway Company; Sea Beach Railway Company; Brooklyn Heights Railroad Company; Brooklyn, Queens County and Suburban Railroad Company; Brooklyn Union Elevated Railroad Company; Coney Island and Gravesend Railway Company; Nassau Electric Railroad Company; Interborough Rapid Transit Company; Long Island Electric Railway Company; New York and Long

Island Traction Company; New York City Interborough Railway Company; New York and Queens County Railway Company having severally made applications to the Commission for a rehearing in respect of the provision of said final order requiring the posting of notices, and said applications having been granted, and such rehearing having been duly had on December 2, 1909, before Mr. Commissioner Eustis, Mr. J. L. Quackenbush, of Counsel for the Interborough Rapid Transit Company and others, and Mr. W. S. Menden, representing Brooklyn Heights Railroad Company and others, appearing, and Mr. Henry H. Whitman, Assistant Counsel to the Commission, attending, and the Commission being of opinion after such rehearing and a consideration of the facts including those arising since the making of said final order, that said final order is not in whole or in part in any respect unjust or unwarranted and that the same should not be abrogated, changed or modified,

It is ordered, That the petition of said companies that said provision of said final order requiring the posting of notices be abrogated and the same hereby is denied.

The Commission, on December 31st, directed (see blank form of hearing order, page 9) that a hearing be had on January 10, 1910, to determine whether a form of notice should be prescribed by the Commission as to those companies who had not already submitted forms of notice to the Commission.

Metropolitan Street Railway Company.—Service on 116th Street Crosstown Lines.

Case No. 1194

Hearing Order

This proceeding arose on motion of the Commission to determine what, if any, improvements should be directed in the service of the company on its 116th Street Crosstown Line. The Commission, on December 21, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on December 27th. Hearings were held on said date and on December 31st, when the matter was adjourned to January 7, 1910.

Nassau Electric Railroad Company and Brooklyn Union Elevated Railroad Company.—Service on Bath Beach and Ulmer Park Line.

Case No. 1172

Hearing Order

At a meeting of the Commission on October 19, 1909, Commissioner McCarroll stated that he desired to conduct a hearing under Order No. 615, with regard to the service on the Bath Beach and

Ulmer Park Line, on October 19th. The Chairman thereupon designated Commissioner McCarroll to conduct such hearing.

Hearings were held on October 19th and 20th, when the matter was adjourned subject to call. No further action taken in 1909.

Second Avenue Railroad Company.—Overhauling, equipment and repair of cars.

Case No. 1055

Hearing Order

Final Order

Order prescribing form of report

The Commission, on January 29, 1909, directed (see blank form of hearing order, page 9) that a hearing be held on February 15th to inquire whether the equipment, appliances and service of the above-named company were, in any particular, unreasonable, unsafe, improper or inadequate, and, if so found, to determine what repairs, improvements or changes should be directed to be made. A hearing was held February 15th. The Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Repairs, Improvements and Addi-
tions to Cars of SECOND AVENUE RAIL-
ROAD COMPANY and of GEORGE W. LINCH,
Its Receiver.

Case No. 1055,
Final Order.
February 16, 1909.

A hearing having been duly held on February 15, 1909, before Hon. Milo R. Maltbie, Commissioner, and the Commission being of opinion after said hearing that the repairs hereinafter set forth ought reasonably to be made in order to promote the security and convenience of the public, and that the time hereinafter given within which to make such repairs is reasonable, it is

Ordered, That all open and closed cars used or to be used by the Second Avenue Railroad Company or by George W. Linch, its Receiver, receive a thorough inspection covering car bodies, motive and electrical equipment, wiring and trucks, and that said cars be thoroughly overhauled and repaired so that when completed they and every one of them shall be in a first class

operating condition, having safe, proper and adequate car bodies, head-lights, wheelguards, wiring, brasses, controllers, automatic circuit breakers, resistances, axle gears, armature pinions and car wheels; and it is further

Ordered, That the work as above described on all open cars and on not less than sixty closed cars be completed not later than May 31, 1909, and that on or before September 1, 1909, the work as above described be completed on all cars used or to be used by the Second Avenue Railroad Company or its said Receiver; and it is further

Ordered, That the said Second Avenue Railroad Company or its Receiver notify the Public Service Commission for the First District daily in writing in a form to be prescribed by the Commission of the numbers of said cars so turned out as aforesaid giving identification numbers thereof; and it is further

Ordered, That the Second Avenue Railroad Company or its said Receiver notify the Commission in writing within five (5) days after the service of this order whether its terms are accepted and will be obeyed.

CASE NO. 1055, ORDER PRESCRIBING FORM OF REPORT.

(February 19, 1909.)

Ordered, That the Second Avenue Railroad Company and George W. Linou, its Receiver, shall use the following form in reporting the cars repaired and ready for inspection, as provided by final order herein.

NEW YORK CITY,

To the Public Service Commission for the First District, Bureau of Equipment Inspection, 154 Nassau Street, New York City.

SIRS:— We hereby notify you that the following cars have been overhauled and repaired at car barn, as provided in Final Order in Case No. 1055 of your Commission, and may be tested at on Cars numbered

(Date)

.....
(Signed)

Nuisances.

Brooklyn Heights Railroad Company.—Storage of cars on 52d Street between First and Second Avenues, Brooklyn.

Case No. 1036

Complaint Order

Discontinuance Order

This proceeding came up on the complaint of the J. P. Duffy Company against the company for storing its cars on 52d Street between First and Second Avenues, Brooklyn. The Commission, on January 12, 1909, issued a complaint order (see blank form of

complaint order, page 7) and on May 11th, issued the following order:

<div style="text-align: center;"> J. P. DUFFY, Complainant, <i>against</i> BROOKLYN HEIGHTS RAILROAD COMPANY, Defendant. <hr/> "Storage of cars on 52d Street between First and Second Avenues." </div>	<div style="text-align: right;"> Case No. 1036, Discontinuance Order. May 11, 1909. </div>

An order known as complaint order in Case No. 1036, having been duly made by the Commission on January 12, 1909, and said order having been duly served upon the Brooklyn Heights Railroad Company, and said Brooklyn Heights Railroad Company having satisfied the matters complained of,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission.

Brooklyn Heights Railroad Company et al.—Smoking on cars in Brooklyn.

Case No. 1075

Hearing Order

Opinion of the Commission

Discontinuance Order

This proceeding was begun on motion of the Commission against the Brooklyn Heights Railroad Company, Brooklyn, Queens County and Suburban Railroad Company, Brooklyn Union Elevated Railroad Company, Nassau Electric Railroad Company, Sea Beach Railway Company, South Brooklyn Railway Company and the Coney Island and Brooklyn Railroad Company in regard to smoking on the cars of said companies in Brooklyn. The Commission, on February 19, 1909, directed (see blank form of hearing order, page 9) that a hearing be had March 3d.

OPINION OF THE COMMISSION.

(Adopted June 4, 1909.)

COMMISSIONER McCABROLL: —

A hearing was held on the 3d instant on a proposed order for the prohibition of smoking on the rear platforms of cars of the lines embraced in the Brooklyn Rapid Transit System. One citizen appeared and offered testi-

mony in opposition to such order, and the railroad company was represented by Mr. A. N. Dutton.

It appeared that a city ordinance exists, contained in section 60 of chapter 5 of part 3 of the Code of Ordinances, which prohibits smoking on the "inside or upon the platforms of any car or other public conveyance in the Borough of Brooklyn." Copy of the ordinance is hereto attached in a communication from the Counsel to the Commission. There is a penalty against the companies of fifty dollars for any violation of the provisions of the article, but part of the ordinance declares that "it shall be the duty of the police to enforce the provisions."

Mr. Dutton testified on behalf of the companies that after the passage of the ordinance they had made efforts to enforce it through their employees. These efforts had led to disputes and conflicts with passengers which interfered with the employees' performance of their duties in running the cars and caused disorders which were a menace to the comfort and safety of passengers; that as the company regarded the ordinance as making it the duty of the police to enforce its provisions, the effort to obtain its enforcement by employees was, in consequence of the difficulty, discontinued, and it was now practically a dead letter. He testified that the company would be favorable to the enforcement of it on closed cars on the ground that the crowding of smokers on the rear platforms produced much inconvenience and considerable delays. He testified, also, that there was but little complaint on the part of the public generally regarding it.

In view of the testimony, and of the facts, it would appear that the duty of the Commission would be discharged by addressing a communication to the Police Department, calling attention to the ordinance and discontinuing any further proceeding.

As the hearing was not held directly on the complaint, which was, however, the basis of it, and as it proceeded on the motion of the Commission, I recommend that a letter be addressed by the Secretary to the Police Commissioner and that an order of discontinuance be adopted.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter of the</p> <p>Hearing on Motion of the Commission in Respect to Smoking on the Cars of the BROOKLYN HEIGHTS RAILROAD COMPANY, BROOKLYN, QUEENS COUNTY & SUBURBAN RAILROAD COMPANY, BROOKLYN UNION ELEVATED RAILROAD COMPANY, NASSAU ELECTRIC RAILROAD COMPANY, SEA BEACH RAILWAY COMPANY, SOUTH BROOKLYN RAILWAY COMPANY and the CONEY ISLAND & BROOKLYN RAILROAD COMPANY.</p> <p style="text-align: center;">Smoking on cars in Brooklyn.</p>	<p>Case No. 1075, Discontinuance Order. June 4, 1909.</p>
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Ordered, That the proceedings herein be and the same hereby are discontinued.

Metropolitan Street Railway Company and Receivers.—Noise made by operation of cars at the curve at 53d Street and Sixth Avenue.

This proceeding was begun in 1908 on the complaint of William W. Hoppin in respect to noise made by operation of cars at the curve at 53d Street and Sixth Avenue. Hearings were held on January 6, 13 and 20, 1909, after which the following final order was issued:

WILLIAM W. HOPPIN,	Complainant,
<i>against</i>	
METROPOLITAN STREET RAILWAY COMPANY and ADRIAN H. JOLINE and DOUGLAS ROBINSON, Receivers of Said Company.	

Case No. 1013,
Final Order.
January 22, 1909.

“Noise made by operation of cars at the curve at 53d Street and Sixth Avenue.

This matter coming on upon the report of the hearing had herein on January 6, January 13 and January 20, 1909; and it appearing that said hearing was had pursuant to an order for hearing duly made in Case No. 1013; and it appearing that said order was issued upon the complaint of William W. Hoppin, and the answer of the receivers of the Metropolitan Street Railway Company thereto; and it appearing that said order was duly served upon said Metropolitan Street Railway Company and upon said Adrian H. Joline and Douglas Robinson, receivers of said company, and that such service was by said receivers duly acknowledged; and it appearing that said hearing was had by and before the Commission on the dates aforesaid before Mr. Commissioner Eustis, presiding, William W. Hoppin, Esq., complainant, appearing in person, and there being no appearance by or on behalf of said Metropolitan Street Railway Company, or said receivers; and testimony having been taken on said hearing; and it having been made to appear after the proceedings on said hearing that the regulations, practices and service of said company and said receivers upon said company's line in Sixth Avenue and 53d Street, in the City and State of New York, upon the curve of said line extending from Sixth Avenue to 53d Street, are unjust and unreasonable, and that changes and improvements therein in the particulars following ought reasonably to be made in order to promote the security and convenience of the public, and that the time hereinafter specified would be a reasonable time within which said company should be ordered to put such changes and improvements into effect;

Now, on motion of George S. Coleman, Esq., Counsel to the Commission,

It is ordered, That said Metropolitan Street Railway Company and said Adrian H. Joline and Douglas Robinson, as receivers of said company, be and they hereby are directed and required:

(1) To operate all cars around and upon said curve at 53d Street and Sixth Avenue at a slow rate of speed, to the end that the noise incident to such operation be diminished as much as possible.

(2) To properly grease the tracks at said curve at least once every three hours of the day and night in such manner that cars may be operated around said curve as noiselessly as possible.

(3) In every case before applying grease to said tracks to sweep the said

tracks clean so that they shall be free from all dirt and slush at the time the grease shall be applied.

It is further ordered, That the changes and improvements aforesaid be put into effect on or before the 27th day of January, 1909.

It is further ordered, That this order shall take effect immediately, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

It is further ordered, That said Metropolitan Street Railway Company and said Adrian H. Joline and Douglas Robinson, receivers of said company, notify the Public Service Commission for the First District not later than the 27th day of January, 1909, whether the terms of this order are accepted and will be obeyed.

Metropolitan Street Railway Company.—Noise caused by cars on Amsterdam Avenue.

Case No. 1122

Complaint Order

Discontinuance Order

This proceeding came up on the complaint of S. R. Benjamin against the company alleging noise caused by operation of cars on Amsterdam Avenue. The Commission, on June 25, 1909, issued a complaint order (see blank form of hearing order, page 7).

<p>S. R. BENJAMIN, Complainant, <i>against</i></p>	
<p>METROPOLITAN STREET RAILWAY COMPANY and ADRIAN H. JOLINE and DOUGLAS ROBIN- SON, its Receivers, Defendants.</p>	<p>Case No. 1122, Discontinuance Order. December 21, 1909.</p>
<p>“Noise caused by cars on Amsterdam Avenue.”</p>	

The matters complained of in the complaint herein having been satisfied, it is

Ordered, That the above entitled proceeding be and the same hereby is discontinued.

Nassau Electric Railroad Company; American Railway Traffic Company of New York and Brooklyn Heights Railroad Company.—Noise caused by cars at curve at Ocean Avenue and Avenue F.

Case No. 442

Suspension Order

Order abrogating Final Order

This proceeding was begun in 1908 upon the complaint of Paul Gorham as President of the South Midwood Residents' Associa-

tion against the above-named companies in respect to the noise caused by the operation of cars at Ocean Avenue and Avenue F. Hearings were held and a final order adopted in that year.

PAUL GORHAM, as President of the South Mid-
wood Residents' Association,
Complainant,
against

NASSAU ELECTRIC RAILROAD COMPANY,
AMERICAN RAILWAY TRAFFIC COMPANY
OF NEW YORK and BROOKLYN HEIGHTS
RAILROAD COMPANY,
Defendants.

Case No. 442,
Suspension Order.
January 15, 1909.

"Noise caused by cars at curve at Ocean Avenue
and Avenue 'F.'"

Resolved, That Order No. 442, directing the frequent lubrication of the rails at the curve caused by the intersection of Ocean Avenue and Avenue F, adopted on April 28, 1908, be, and the same hereby is, suspended for two months from this date.

ORDER ABROGATING FINAL ORDER NO. 442.

(March 26, 1909.)

Final Order No. 442 having been made herein on April 28, 1908, directing the Nassau Electric Railroad Company and Brooklyn Heights Railroad Company to take the necessary steps to have the rails lubricated at the curve formed by the intersection of Ocean Avenue and Avenue F for the purpose of reducing the noise caused by the friction of car wheels against the rails at this point, and it appearing that the operation of ash cars over the tracks at the intersection of Ocean Avenue and Avenue F has been discontinued,

Now, therefore, it is

Ordered, That said Final Order No. 442 be and the same hereby is in all respects abrogated.

Further ordered, That this order shall take effect at once, and that a copy of this order be served on the Brooklyn Heights Railroad Company and on the Nassau Electric Railroad Company within ten days after its adoption.

Nassau Electric Railroad Company and Brooklyn Heights Railroad Company.— Noise arising from operation of cars of the Bergen Street and Nostrand Avenue lines.

This proceeding was begun in 1908 upon the complaint of E. M. Ostrander and others against the companies by reason of alleged noise arising from operation of their cars on the Bergen Street and Nostrand Avenue lines. The tracks having been repaired to some extent and the Brooklyn Heights Railroad Company having

agreed to relay certain portions of the tracks and also other portions if necessary, the Commission issued the following order:

<p>E. M. OSTRANDER ET AL., Complainants, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY and BROOKLYN HEIGHTS RAILROAD COM- PANY, Defendants.</p>	<p>Case No. 1004, Discontinuance Order. December 28, 1909.</p>
<p>“Noise arising from the operation of cars of the Bergen Street and Nostrand Avenue lines.”</p>	

Ordered, That the above-entitled proceeding be and the same hereby is discontinued without prejudice to an order for hearing or action thereon by the Commission in respect to any of the matters covered by the complaint and answer herein or any proceedings thereon.

Nassau Electric Railroad Company.— Noise caused by operation of cars on the Hamburg Avenue line in the vicinity of Cooper Street, Brooklyn.

Case No. 1050
Complaint Order
Discontinuance Order

This proceeding came up on the complaint of Alfred F. Erichsen against the company alleging noise caused by the operation of cars of the Hamburg Avenue line in the vicinity of Cooper Street, Brooklyn. The Commission on January 29, 1909, issued a complaint order (see blank form of complaint order, page 7) and, on December 21st, the matters involved herein being covered by Case No. 1073, issued the following order:

<p>ALFRED F. ERICHSEN, Complainant, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY, Defendant.</p>	<p>Case No. 1050, Discontinuance Order. December 21, 1909.</p>
<p>“Noise caused by operation of cars of the Ham- burg Avenue Line in the vicinity of Cooper Street.”</p>	

Ordered, That the above-entitled proceeding be and the same hereby is discontinued.

New York Central and Hudson River Railroad Company.—
Smoke nuisance in the vicinity of 167th Street.

Case No. 1040

Complaint Order

Hearing Order

Discontinuance Order

This proceeding came up on the complaint of Francis P. Kenny, President of the Highbridge Taxpayers' Alliance, complaining of the emission of black smoke, cinders, soot and ashes from engines of the company burning bituminous coal in the vicinity of 167th Street. The Commission, on January 15, 1909, issued a complaint order (see blank form of complaint order, page 7) and, on January 29th, issued a hearing order directing (see blank form of hearing order, page 8) that a hearing be had on February 11th. Hearings were had on said date and subsequently until June 12th. The following order was issued:

FRANCIS P. KENNY, President of the Highbridge Taxpayers' Alliance, <i>against</i> NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, <hr style="width: 10%; margin: 0 auto;"/> "The emission of black smoke, cinders, soot and ashes from engines burning bituminous coal in the vicinity of 167th Street."	Complainant, Defendant.
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Case No. 1040,
Discontinuance Order.
June 15, 1909.

A hearing having been had by and before the Commission in the above-entitled matter on February 11th, February 17th, March 3d, March 10th, April 7th, April 15th, and June 12th, 1909, Commissioner Eustis presiding, Benjamin Marcus, Esq., attorney, appearing for the complainant and Alexander S. Lyman, Esq., attorney, appearing for the defendant and H. M. Chamberlain, Esq., assistant counsel, attending for the Commission, and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that since said hearing was instituted the complaint herein has been substantially satisfied by the company; now, therefore, it is

Ordered, That the said proceeding be and the same hereby is discontinued.

New York Central and Hudson River Railroad Company.—

Noise caused by letting off steam by engines at Sedgwick Avenue, 161st–165th Streets.

Case No. 1123

Complaint Order
Hearing Order

This matter came up on the complaint of Adolph Alexander and others complaining of the noise caused by letting off steam by engines at Sedgwick Avenue from 161st to 165th Street. The Commission, on June 25, 1909, issued a complaint order (see blank form of complaint order, page 7) and on July 13th, issued an order directing (see blank form of hearing order, page 8) that a hearing be had on July 21st. Hearings were held July 21st, 22d and 29th. At the conclusion of the testimony on July 29th, Commissioner Eustis announced that he had made personal investigation and found no just cause for complaint, but would hold the matter in abeyance until additional complaint be made.

New York Edison Company.— Emission of cinders from stacks of power house near First Avenue and 40th Street.

In the Matter
of the
Hearing on Motion of the Commission in Regard
to Alleged Emission of Cinders from the stacks
of the Power House of the NEW YORK EDI-
SON COMPANY near First Avenue and 40th
Street.

Case No. 808.
Discontinuance Order.
March 12, 1909.

A hearing having been had in the above entitled matter on the 11th day of November, 1908, the 17th day of November, 1908, the 20th day of November, 1908, the 25th day of November, 1908, and the 9th day of March, 1909, before the Public Service Commission for the First District, Commissioner Maltbie presiding, the said hearing having been had pursuant to Hearing Order No. 808, issued upon motion of the Commission after complaint duly made by David Franklin on behalf of himself and others;

Now, it having been made to appear after the proceedings on said hearing that said complaint has been substantially satisfied and that experiments are being made with a view to the entire elimination of the nuisance complained of; and said David Franklin having appeared at said hearing of March 9, 1909, and having stated that he was willing that this proceeding should be discontinued, and having given his consent thereto;

Now, therefore, it is

Ordered, That said proceeding be and the same hereby is discontinued.

New York, New Haven and Hartford Railroad Company.—
Smoke nuisance at Harlem River yard.

Case No. 512

Extension Order

This proceeding was instituted in 1908 upon the complaint of Henry G. Kost against the above-named company, in which he complained of the practices followed by the company in its Harlem River yard. A final order (No. 512) was issued May 22, 1908, which required the company to discontinue the use of its roundhouse in said yard and of the tracks adjacent thereto for the storage of engines under steam by or before January 1, 1909. The time of the company having been extended upon its application until July 1, 1909, it again made application for an extension of time, and thereafter, on June 15th, an order (see blank form of extension order, page 8) was issued extending the time of the company within which to discontinue the use of the roundhouse until July 1, 1910.

New York, New Haven and Hartford Railroad Company.—
Unsanitary manner of loading manure cars at Harlem River yard.

Case No. 790

Opinion of the Commission

Final Order

Rehearing Order

Order denying petition for abrogation of Final Order

OPINION OF THE COMMISSION.

(Adopted April 6, 1909.)

COMMISSIONER EUSTIS: —

On the 6th day of April, 1909, a final order was made by the Commission requiring the New York, New Haven & Hartford Railroad Company to construct a new platform for the handling of its manure business in the Harlem River yard, and prescribing certain regulations with reference to the handling of the manure.

The complainants are people living in the immediate neighborhood and those who travel across the Harlem River on the elevated railroad trains, and the main objection was that the manner in which the railroad company handled the manure made it a nuisance, that often during the summer

weather the stench was unbearable on account of the large number of cars being loaded at the same time, and also in close proximity to the elevated trains.

The regulations provided in the original order were that not more than four cars should be loaded at one time, and as soon as loaded they should be covered and taken to some more remote part of the company's freight yards, so as to be removed from the vicinity of the residential district and from the traveling public.

The complaint of the complainants demanded relief under section 50 of the Public Service Commissions Law. The answer of the company stated in substance that no relief was necessary, and did not raise any question of jurisdiction. Upon the hearing, however, this objection was made.

The company made an application for a re-hearing, without specifying any grounds therefor; the application was granted, and a re-hearing was had on the 16th day of April, 1909, and at the beginning of the hearing the counsel for the railroad company was asked if there was any particular part of the order that was objected to, or whether the objection applied to the whole order, and he replied that they objected to the order as a whole, upon the ground, (1) that the order was beyond the jurisdiction and power of the Commission, as it related purely to a sanitary matter under the jurisdiction of the Board of Health, and that a fair construction of the Public Service Commissions Law did not give jurisdiction of this subject to the Public Service Commission as a part of its general powers; (2) that there is no evidence in the case whatsoever that the interests of any passenger or shipper of freight are being considered by this Commission; and (3) that the company was a common carrier, bound to receive manure at the Harlem River freight yard whenever it is presented for shipment, and that the order restricting the railroad company to loading not more than four cars at once was objectionable.

At the original hearing evidence was produced showing that the Board of Health had at that time made an order directing the company to construct a new platform for its manure business, and that the plan for this new platform, which had been prepared by the company, had been approved by the Board of Health, and was furnished to the Commission; and the order issued by the Commission, in so far as it referred to the platform, followed the lines of the order of the Board of Health and was substantially identical therewith.

On the re-hearing the company did not offer any testimony to show that the order of the Commission was unjust or unwarranted, or that they could not properly handle their manure business by loading four cars at a time, but an effort was made to show that after the final order was issued by the Commission the Board of Health had modified its order in some respects, and they contented themselves with emphasizing their objection to the jurisdiction of the Commission, and offering proof to show that the Board of Health had in the past been quite active in regard to the company's manure business.

The order of the Board of Health in this matter was made pursuant to certain provisions of the sanitary code, which code consists of ordinances of the Board of Health. These ordinances have the force and effect of law, and violations thereof are made punishable as a misdemeanor.

The question raised by the company as to the jurisdiction of the Commission is important and deserves careful consideration. The Commission

would be powerless to make any regulation respecting matters of the health and safety of the public, regarding which the Board of Health has legislated, or may hereafter legislate, if their contention is correct.

The objections mentioned make it necessary to consider what effect the Public Service Commissions Law has upon the provisions of the Greater New York Charter granting power to the Board of Health, and particularly what effect that law has upon the ordinances of the Board of Health contained in the sanitary code, and upon the orders of the Board of Health made pursuant thereto.

It is well established that statutes of a general nature do not ordinarily repeal by implication charters and special acts passed for the benefit of particular municipalities, unless the intention to repeal is manifest, or the two are so inconsistent that both can not stand. But if the two acts are manifestly repugnant and tend to nullify each other, or if the later act is manifestly intended to furnish the entire law upon a given subject, then the older enactment must yield to the later statute, and in case of partial inconsistency the prior act is repealed so far as the inconsistency exists; *and it is a general rule that in case of conflict between an ordinance (or by-law) of a municipality and a general law of the state, the latter will prevail.*

The Public Service Commissions Law repeals expressly certain enumerated acts "and all acts and parts of acts otherwise in conflict with this act."

Section 1620 of the Greater New York Charter provides that: "This act shall be construed not as an act in derogation of the powers of the state, but as one intended to aid the state in the execution of its duties by providing, subject to the constitution and laws of the state and the provisions and limitations herein contained, an adequate scheme of local government for the communities and people affected, through the instrumentality of the corporate body herein constituted, under the name of 'The City of New York.'"

This is equivalent to a declaration that the subsequently enacted general laws of the state shall be paramount.

These provisions, when read together, indicate that the legislature intended that the Public Service Commissions Law should prevail over any conflicting provisions of the Greater New York Charter. If this is so, then an order of the Board of Health regulating railroads would yield to any order of the Commission in the same matter, made pursuant to the Public Service Commissions Law.

The powers of the Board of Health of the City of New York fall within the police power of the state, and were delegated to that Board to be exercised for the public good. The police power of the state is legislative in its nature. The legislature may, therefore, at any time recall any of the powers so delegated, and either exercise them itself or delegate them to such boards as it may see fit. The legislature had the power to recall any powers of the Board of Health, so far as railroads are concerned, and to delegate such powers to the Public Service Commission to be exercised by it, or to require that any exercise of such powers by the Board of Health should be subject to be modified or defeated by any action of the Commission in such matters.

Applying these principles to the case in hand, it seems to me that the intent of the legislature, in passing the Public Service Commissions Law, was to delegate to the Commission the police power of the state over the agencies

therein described within its jurisdiction, and that the Commission having acted in the matter its order is effective until modified or abrogated by the Commission or by the court.

The sanitary code adopted by the Board of Health contains several sections providing for the regulation of railroads and street railroads. One of these forbids the use of cloth cushions, another provides for the cleaning of the interior of cars, another that all cars shall be so constructed as to provide adequate ventilation, another for the running of a certain number of closed cars, and still another regulating the appliances on cars and the speed of cars. This Commission has made orders concerning many of these matters, and, if the contention of the company in the present case is correct, such orders issued by the Commission would be of no effect. Moreover, the Board of Health has power to pass as many other ordinances as it may choose, not limiting itself to the subject of health only; for example, it might pass an ordinance requiring all street cars to be provided with fenders, and, if the Commission should subsequently make an order requiring the company to provide a different kind of fender, the company's contention in this case would require the conclusion that the order of this Commission could not be sustained because it was in conflict with the order of the Board of Health.

In considering their objection that, under a fair construction of the Public Service Commissions Law, no power is granted to this Commission to regulate railroads, unless the interest of some passenger or shipper of freight is being considered by the Commission, I must say that this position seems to be a very narrow one. The word "public" would have to be construed to mean only persons actually using the railroads as passengers or as shippers of freight. Under this construction this Commission would have no power to compel a company to station flagmen at crossings, or to compel a company to erect signal bells or gates at crossings for the protection of the general public; it would have no power to compel a company to equip its engines with spark arresters, or to use oil-burning engines in order to prevent setting of fires to private property along the right of way. Neither would it have power to compel street railway companies to equip their cars with wheel-guards or fenders. Yet these are matters over which the Commissions of both districts have assumed jurisdiction.

Section 48 of the Public Service Commissions Law gives the Commission power to grant relief in case of any violation of law, and in case of any violation of any charter or franchise requirement. The construction for which the company contends in this case would require us to so construe this section as to make it applicable only to such violations as directly affect passengers or shippers of freight. The result would be that the company might violate many of the requirements of law and many franchise requirements for the benefit of the public generally, and the Commission would be powerless to afford any relief. The sections of the Public Service Commissions Law requiring the filing of annual reports, uniform system of accounts, the approval by the Commission of the construction and operation of railroads, the approval by the Commission of transfers of franchises or stocks, and the issuance of stocks and bonds, can hardly be construed so narrowly as being for the benefit only of those persons actually using the railroad as passengers or as shippers of freight.

I am therefore of the opinion that this objection is not well founded.

The other objection, that they were limited to the loading of four cars at a time, was not supported by any evidence or proof that it was necessary in the conduct of their business to load more than four cars at one time.

The evidence submitted upon the original hearing showed that a large portion of the nuisance consisted in the fact that a great number of cars were being loaded at the same time, and continued there the whole day, so that the stench that permeated from the manure into the air, and thence to the residential district and over the tracks of the railroad, was many times greater than it would be if they were loading only a few cars at a time, and this restriction was made in order to, as far as possible, eliminate the amount of stench during any one time, and it is to be assumed that the company can adequately handle their manure business by the loading of four cars at one time, otherwise they would have produced some evidence to show that it was necessary to load more than that number at the same time.

For the reasons stated the application of the New York, New Haven & Hartford Railroad Company to have the original order rescinded as a whole should be denied, and the original order should stand.

Thereupon the following order was issued:

SOUTH BRONX PROPERTY OWNERS' ASSO-
CIATION,

Complainant,

against

NEW YORK, NEW HAVEN AND HARTFORD
RAILROAD COMPANY,

Defendant.

Case No. 790,
Final Order
April 6, 1909.

"Unsanitary Manner in which Manure Cars are
loaded at the Harlem River Yard."

A hearing having been had in the above matter by and before the Commission on the 6th day of November, 1908, and on the 5th day of March, 1909, and on various intermediate dates, Commissioner Eustis presiding, Hermann G. Friedman, Esq., appearing for the complainant, and W. L. Barnet, Esq., appearing for said railroad company; and the Commission being of the opinion after said hearing that there are reasonable grounds for the charges contained in the petition or complaint herein;

Now, therefore, it is

Ordered, (1) That said New York, New Haven and Hartford Railroad Company be and it hereby is directed and required to remove from its Harlem River Yard the saturated decayed plank platform now existing in said yard; that said company clean up and disinfect the ground space under and adjacent to said platform; and that a new type platform be constructed, said platform and the ground adjacent to the tracks thereat where manure cars stand while being loaded to be paved with Belgian blocks and so graded as to discharge all liquid matter into a proper sewer-connected drain; said construction to be done in accordance with plan and diagram shown on blueprint filed with the Commission by said railroad corporation and marked and entitled:

"N. Y. N. H. & H. R. R.
New York-Division
Proposed Manure Gangway
Harlem River-N. Y.
Scale 1" = 40' Jan. 1909."

(2) That all of said work be completed by said company prior to the 1st day of June, 1909.

(3) That after said work shall have been completed as aforesaid, and between the 1st day of May and the 1st day of November in each and every year, said company shall observe and comply with the following directions and requirements in connection with the loading, storing and transportation of manure and the use of said platform and tracks for that purpose, viz:—

(a) The tracks occupied by the manure cars shall be used for no other purpose whatever while being used for manure shipment.

(b) All manure cars while being loaded shall not be placed under the elevated railroad, but shall be placed as far from the elevated railroad as possible and in no case within one hundred (100) feet of the easterly line of the elevated railroad.

(c) The loading of a large number of cars at one and the same time shall not be permitted, and not more than four (4) cars shall be loaded at one time.

(d) All cars as soon as fully loaded shall be suitably covered with a tarpaulin or canvas, so as to prevent as far as possible the escape of objectionable odors.

(e) At the close of each day's work all cars fully loaded with manure shall be hauled out for shipment, and those partly loaded with manure shall be removed from the loading platform to some remote portion of the yard for the night.

(f) Care shall be exercised at all times to keep the platform as clean as possible, and at the close of each day's work after the removal of the cars from the loading platform as aforesaid said loading platform shall be thoroughly swept and cleaned and washed down with water in order that all particles of manure may be washed away.

(4) This order shall take effect immediately, and shall continue in force until abrogated or modified by the Commission.

(5) *It is further ordered*, That the said New York, New Haven and Hartford Railroad Company notify the Public Service Commission for the First District on or before the 10th day of April, 1909, whether the terms of this order are accepted and will be obeyed.

The company, on April 9th, made application for a rehearing.

The Commission, on April 12th, directed (see blank form of hearing order, page 8) that a rehearing be had April 16th. A hearing was had on that date. The Commission issued the following order:

CASE NO. 790, ORDER DENYING PETITION FOR ABROGATION OF FINAL ORDER.
(May 14, 1909.)

A final order in the above entitled matter having been made on April 6, 1909, and having been duly served on the New York, New Haven and Hartford Railroad Company; and said company having made application to the Commission under date of April 9, 1909, for a rehearing in respect to the matters determined therein, and said application having been granted; and a rehearing having been had in respect thereto on April 13, 1909, before Mr. Commissioner Eustis, presiding, Charles M. Sheafe, Jr., Esq., attorney, appearing for said railroad company and Hermann G. Friedmann, Esq., appearing for the complainant, and the Commission being of opinion after such rehearing and a consideration of the facts, including those arising since the making of the original order above mentioned, that said original order is not in whole or in part in any respect unjust or unwarranted and that the same should not be abrogated, changed or modified,

Now, therefore, it is

Ordered, That the petition of the company that the final order herein be abrogated, be and the same hereby is denied.

Stations and Station Platforms.

Brooklyn Union Elevated Railroad Company.—Lack of proper facilities at 36th Street station.

Case No. 173

Opinion of the Commission
Order approving plans

This proceeding was begun in 1907 upon the complaint of C. F. Mathison against the company alleging lack of proper facilities at its 36th Street station, and the Commission issued an order directing the company to make certain alterations.

OPINION OF THE COMMISSION.
(Adopted November 5, 1909.)

COMMISSIONER MCCARROLL:—

Mr. Connette transmits plan presented by the Brooklyn Union Elevated Railroad Company for the changes at 36th Street station which were the subject of investigation on several occasions by Commissioner Bassett and myself. Complaints were frequent as to the inadequacy of the platform accommodations and as to the exposure of passengers on the platforms in inclement weather, there being no proper shelter.

The plan of the company arranges for enlarging of the platform about ten feet for two-thirds of its length and sloping off towards the ends. This seems to leave sufficient space.

The plan also embraces the erection of wind shields for the necessary protection, and some other minor changes set forth in the letter of Mr. Connette which is filed with the papers.

These changes seem to meet the requirements and have met the approval of Mr. Connette.

I recommend that the plan be approved by the Commission, and that the proceedings be discontinued, so far as this matter is concerned, on the stipulation of the railroad company that it will proceed at once to carry out the same.

Thereupon the Commission issued the following order:

<div style="text-align: center;"> <p>In the Matter of the Complaint of C. F. MATHISON, Complainant, against BROOKLYN UNION ELEVATED RAILROAD COMPANY, Defendant.</p> </div>	<p>Case No. 173, Order Approving Plans. November 5, 1909.</p>
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The Brooklyn Union Elevated Railroad Company having submitted and filed with the Commission, under the requirement of subdivision (1) of the Final Order adopted herein on December 27, 1907, for the construction of

wind shields at the westerly platform of the 36th Street station on its Fifth Avenue Line, a certain drawing providing for the widening of the said westerly platform and for the rearrangement of the location of stairways thereat, it is

Resolved, That said drawing be and the same hereby is approved.

Brooklyn Union Elevated Railroad Company.—Additional stairway at Marcy Avenue station on Broadway route.

This proceeding was begun in 1908 upon the complaint of Jared J. Chambers against the company, alleging inadequate stairway facilities at the Marcy Avenue station on the Broadway route. The installation of the service across the Williamsburg Bridge to Delancey Street having rendered the construction and maintenance of additional facilities unnecessary, the Commission issued the following order:

<p>JARED J. CHAMBERS, Complainant, <i>against</i> BROOKLYN UNION ELEVATED RAILROAD COMPANY, Defendant.</p>	<p>Case No. 358, Discontinuance Order. December 21, 1909.</p>
<p>“Additional stairway facilities at Marcy Avenue Station, Broadway Line.”</p>	

Ordered, That the above entitled proceeding be and the same hereby is discontinued, without prejudice to an order for hearing and action thereon by the Commission in respect to any of the matters covered by the complaint and answer herein or any proceedings thereon.

Brooklyn Union Elevated Railroad Company.—Reopening of station at Lafayette Avenue and Fort Green Place.

Case No. 846

Opinion of the Commission

Final Order

Opinion of the Commission

Extension Order

Hearing Order

Order of discontinuance of inquiry

This proceeding was begun in 1908 upon the complaint of the Brooklyn Institute of Arts and Sciences against the company re-

garding the reopening of its station at Lafayette Avenue on its Fulton Street line. Hearings were held during 1908.

OPINION OF THE COMMISSION.

(Adopted January 12, 1909.)

COMMISSIONER BASSETT:—

On November 17, 1908, the Brooklyn Institute of Arts and Sciences, by Franklin W. Hooper, Director, addressed to the Commission a complaint against the Brooklyn Union Elevated Railroad Company for failure to use the Lafayette Avenue Station on its Fulton Street line. After answer by the company, a hearing was ordered and hearings were held on December 15, 22 and 31, 1908, at each of which testimony was taken. The railroad company was represented by its superintendent of transportation; the complainant was represented by Franklin W. Hooper, its director, and the Brooklyn League and Flatbush Taxpayers' Association also appeared by their respective presidents, as favoring the application of the complainant. The complainant is an association of some 7,650 members and has its headquarters in the newly opened Brooklyn Academy of Music at Lafayette Avenue, between Ashland Place and St. Felix Street. The nearest entrance of the Academy of Music is about 195 feet from the foot of the stairway leading to the Lafayette Avenue station on the defendant's line. The Academy of Music contains an opera house with a capacity of 2,200 and a music hall with a seating capacity of 1,460, and several smaller auditoriums, with an aggregate seating capacity of about 10,000 for the entire building.

The Brooklyn Institute conducts at the Academy of Music an average of from three to seven lectures, lecture classes and department meetings every evening and from three to five every afternoon, with occasional meetings on Sunday, throughout the year from September 25th until June 1st. It appears from the evidence that the attendance of the Institute varies from 1,500 to 5,000 per day. The membership of the Brooklyn Institute is widely scattered throughout all portions of the Borough and the attendance upon its various activities would appear to be rapidly increasing. In addition to the Brooklyn Institute meetings, an extensive season of opera is performed at the Academy of Music and the various auditoriums of the building are in almost constant use for various meetings, lectures, concerts and other similar gatherings.

In connection with the completion of the Brooklyn Academy of Music, the Brooklyn Heights Railroad Company has laid tracks in Lafayette Avenue between Flatbush Avenue and Fulton Street, over which line the Brooklyn Heights Railroad Company operates cars. The complainant claims, however, that a very small proportion of its patrons are accommodated by these surface lines, and the testimony is uncontradicted that many of such patrons come from considerable distance and would be greatly inconvenienced by the resumption of service at the Lafayette Avenue station of the Fulton Street Elevated Line.

The distance between the Flatbush Avenue station and the Cumberland Street station is almost exactly half a mile, which is a considerably longer

interval than exists between any other two stations west of Manhattan Junction on the Fulton Street Line. Lafayette Avenue is further from either Flatbush Avenue or Cumberland Street than either of those stations is from the next station to it.

It would seem that the opening of the Lafayette Avenue station would serve the convenience of a large number of people other than patrons of the Academy of Music and the Brooklyn Institute. The Lafayette Avenue station is nearer to the Long Island depot than the Cumberland Street station or any other station on the Fulton Street Line. Fulton Street near Lafayette Avenue has had a large increase of business since the station was discontinued several years ago. The portion of Lafayette Avenue east of Fulton Street and the cross streets which intersect Lafayette Avenue in that vicinity are less accessible to surface car service than the districts in the vicinity of any of the other stations along the Fulton Street Line for a considerable distance beyond Flatbush Avenue.

Traffic observations show that the surface cars on Fulton Street past Lafayette Avenue are very heavily overcrowded during the rush hours, and that at those times additional trains could be operated on the elevated line, which would become available to passengers in that vicinity if the station were in use.

The reason why this station was discontinued several years ago appears to have been because of the small use to which it was put, the delay caused by stopping, and the fact that a somewhat severe grade made stops difficult. There was a considerable popular demand for the discontinuance of this station at the time. During the hearings, however, which were publicly announced and fairly attended, no one appeared who protested against the opening of the station. The representative of the defendant adverted to the causes that had brought about the discontinuance of the station and expressed the opinion that a larger number of people would be inconvenienced by reason of the stop than would be accommodated by the opening of the station. This situation occurs to some extent at every elevated station in the business district. The locality in question is rapidly changing by the incoming of business, and in any case it would only be a question of a year or two when the demand would become even more general to put the station to use. The Academy of Music will probably become even more the center of social, educational and civic activities of the borough than it is now and it would seem fitting that the transportation facilities of the city should be adapted somewhat to its location. A great volume of express traffic in the rush hours need not stop at this station even if it is opened.

For these reasons it seems to me reasonable and proper that the company should put its Lafayette Avenue station in order and should resume its use as a station for all except express trains. I believe that the public convenience requires such resumption and I recommend the adoption of an order to that effect.

Thereupon the Commission issued the following order:

BROOKLYN INSTITUTE OF ARTS AND
SCIENCES, by Franklin Hooper, Director,
Complainant,

against

BROOKLYN UNION ELEVATED RAILROAD
COMPANY,

Defendant.

Case No. 846,
Final Order.
January 12, 1909.

Case No. 846.

This matter coming on upon the report of the hearing had herein on the 15th day of December, 1908, and the adjournments thereof, and it appearing that the said hearing was held by and pursuant to an order of this Commission, duly made and filed the 8th day of December, 1908, after complaint and answer, and that the said order was duly served upon the Brooklyn Union Elevated Railroad Company and that the said service was by it duly acknowledged, and that said hearing was held by and before the Commission on the matters in said order specified on December 15, 1908, and by adjournment duly had on the 22d day of December, 1908, and by adjournment duly had on the 31st day of December, 1908, and at each of said sessions Mr. Commissioner Bassett, presiding, Grosvenor H. Backus, assistant counsel for the Commission, attending, and Mr. Arthur N. Dutton appearing for said company at each of said sessions, and proof being taken,

Now, it being made to appear after the proceedings on the said hearing that the regulations, practices, equipment, appliances and service of said company upon its Fulton Street Line in the Borough of Brooklyn, with respect to the transportation of persons are unreasonable, improper and inadequate and that changes, improvements and additions thereto ought reasonably to be made in the manner below set forth; and it being made to appear after said proceedings that the changes, additions and improvement in, to and of the regulations, equipment and appliances of said company, as hereinafter set forth, are such as will be just, reasonable and proper and ought reasonably to be made in order to promote the convenience of the public and to secure adequate facilities for the transportation of passengers, and that such changes, additions and improvements ought reasonably to be made on or before the respective dates hereinafter specified,

Therefore, on motion duly made and seconded,

It is hereby ordered, (1) That by or before the 1st day of March, 1909, said Brooklyn Union Elevated Railroad Company put its two stations at Lafayette Avenue and Fort Green Place, on its Fulton Street Line, in suitable repair and condition, to be used regularly as passenger stations.

(2) That on and after said 1st day of March, 1909, said company at all times between the hours of 1:00 P. M. and 12:00 P. M. daily, including Sunday, maintain said stations in the same manner in which other stations on said line are maintained, and stop all trains except express trains at said stations for the receipt and discharge of passengers.

And it is further ordered, That this order shall take effect immediately and shall continue in force until modified by the further order or orders of this Commission.

And it is further ordered, That before the 20th day of January, 1909, said Brooklyn Union Elevated Railroad Company shall inform the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

OPINION OF THE COMMISSION.

(Adopted February 26, 1909.)

COMMISSIONER BASSETT:—

The Brooklyn Union Elevated Railroad Company was ordered to put their Lafayette Avenue station in order and begin its operation on March 1, 1909. It appears that the northerly stairway is not now in place and the company considered that it was necessary to secure the consent of the Borough President before it could be reconstructed. Therefore after receiving the order of the Commission application was made by the railroad to the Borough President for a permit. The Borough President, doubting his authority to grant a permit under the circumstances, has referred the question to the Corporation Counsel. A ten day extension of time is therefore recommended.

Thereupon the Commission issued an order extending the time of the final order to take effect to March 10th, and the time of the company to reply thereto to March 5th (see blank form of extension order, page 8).

Subsequently the Commission, on March 9th, issued an order directing (see blank form of hearing order, page 8) that a hearing be had as to compliance with the final order. Hearings were held on March 29th and subsequently until May 17th. Thereafter the Commission issued the following order:

CASE NO. 846, ORDER OF DISCONTINUANCE OF INQUIRY.

(May 25, 1909.)

An order having been duly made by the Commission on its own motion on March 9, 1909, for an inquiry on the question of the compliance by the Brooklyn Union Elevated Railroad Company with the terms of the final order adopted by the Commission January 12, 1909, under Case No. 846, and said inquiry having been duly held before Mr. Commissioner Bassett on the 29th day of March, 1909, and by adjournment duly had on the 19th day of April, 1909, and by adjournment duly had on the 26th day of April, 1909, and by adjournment duly had on the 3d day of May, 1909, and by adjournment duly had on the 17th day of May, 1909, Grosvenor H. Backus, Esq., Assistant Counsel, attending, and Mr. Arthur N. Dutton appearing for the railroad company at each of said hearings, and testimony being taken, and it being shown that the company's failure to complete the changes required by the Commission's order of January 12, 1909, within the time prescribed was without fault on the part of said company and was caused by the company's inability to obtain necessary permits, and it being shown that the company has now completed the changes required by said order;

Now, therefore, it is

Ordered, That this inquiry instituted by the Commission's order of March 9, 1909, be and the same hereby is in all respects discontinued, without prejudice to an order or orders for further hearing and action thereon by the Commission with respect to any of the matters covered by said order of March 9, 1909, or said final order of January 12, 1909, or by the proceedings thereon.

Further ordered, That this order be filed in the office of the Commission, and that a copy thereof be served on the Brooklyn Union Elevated Railroad Company.

Brooklyn Union Elevated Railroad Company.— Terminal at Cypress Hills station.

Case No. 854

This proceeding was begun in 1907 and an order issued in that year directing the company to notify the Commission when the enlargement and improvement of the terminal at Cypress Hills station should be made. Subsequently, various extensions of time for such notification were granted and the Commission, on April 6, 1909, issued an order further extending such time to May 15th (see blank form of extension order, page 8), and thereafter to November 15, 1909, and to May 15, 1910.

Brooklyn Union Elevated Railroad Company.— Additional signs and stairways.

Case No. 998

Order after Rehearing Order
No. 754 and Final Order
No. 156

Extension Orders
Hearing Order as to Compliance with Final Order

Rehearing Order
Opinion of the Commission
Discontinuance Order
Order after Rehearing
Extension Order

This proceeding was begun in 1907 on motion of the Commission against the company to determine whether it should be directed to install and maintain additional signs and stairways.

OPINION OF THE COMMISSION.

(Adopted January 29, 1909.)

COMMISSIONER BASSETT:—

Heretofore the Brooklyn Union Elevated Railroad Company was ordered to increase the stairway capacity of its Gates Avenue and Halsey Street stations of its Broadway Line. Before the changes were made an alteration of travel caused in part by through operation over the Williamsburg Bridge became apparent and the company asked for a rehearing and stay, alleging that there was now no need for increasing the stairway capacity of these two stations.

The stay and rehearing were granted. Thereafter further testimony was taken. The Halsey Street station stairways are not at present causing as much congestion as formerly. I believe, however, that this falling off is only temporary and that gradually the traffic at this station will increase until it is as great or greater than before. This will necessitate the increase of the stairway space in accordance with the original order. But as it is difficult to state with certainty what will happen in the future, I believe that additional time should be given for installing these improvements. I therefore recommend that the time for widening the stairways at the Halsey Street station be extended to February 1, 1910.

With the Gates Avenue station the situation seems to me to be quite different. There may have been a slight cessation or falling off in the congestion at this station, but I do not believe it is sufficient to warrant a postponement of increasing the stairway space. It appeared on the rehearing that an exit stairway at the Linden Street end of this station would lessen the congestion on the platform and do away with the necessity of widening the present stairways. I recommend that the company should either widen the stairways at this station in accordance with the original order or else construct an additional exit stairway at the Linden Street end of the station. Whichever alternative the company chooses, the work should be completed by April 1, 1909. Let an order be prepared accordingly.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission as to the
Regulations, Practices and Service of the BROOK-
LYN UNION ELEVATED RAILROAD COM-
PANY.

“Additional signs and stairways.”

Case No. 998,
Order after Rehearing
Order No. 754 and
Final Order No.
156.
January 29, 1909.

This matter coming on upon the report of the rehearing had herein on October 9, 1908, and on January 5, 1909; and it appearing that said rehearing was had pursuant to Rehearing Order No. 754 of this Commission, dated October 2, 1908, and returnable on October 9, 1908, issued at the request of the Brooklyn Union Elevated Railroad Company, after service on said company of Final Order No. 156, which provided in paragraphs (2) and (3) thereof as follows:

(2) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Gates Avenue Station and widen the stairway now leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed by or before April 10, 1908.

(3) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Halsey Street Station and widen the stairway leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed before April 10, 1908.

And it appearing that several extensions of time had been granted within which to comply with the provisions of said paragraphs (2) and (3) of said Order No. 156; and it appearing that said Order for Rehearing No. 754

was issued for the purpose of determining whether said paragraphs (2) and (3) of Final Order No. 156, or either of them, were unjust or unwarranted, and whether the same should be abrogated, changed or modified; and it appearing that said Order No. 754 was duly served upon said Brooklyn Union Elevated Railroad Company and said service was by said company duly acknowledged; and it appearing that said rehearing was had by and before the Commission on the dates aforesaid, before Mr. Commissioner Bassett, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and Arthur N. Dutton, Esq., appearing for said Brooklyn Union Elevated Railroad Company; and testimony having been taken upon said rehearing; and the Commission being of the opinion after such rehearing and after consideration of the facts, including those arising since the making of Final Order No. 156, that the provisions of subdivisions (2) and (3) of said Order No. 156 are not unjust or unwarranted, and that the same should not be abrogated, changed or modified, but that said company should be granted an extension of time, as hereinafter provided, for the construction work mentioned in said subdivisions, and that said company should be given the option of constructing a stairway at the Linden Street end of the station mentioned in subdivision (2) of said Order No. 156, in lieu of complying with the provisions of said subdivision (2),

Now, therefore,

It is ordered: (1) That said company comply with the requirements of subdivision (2) of said Order No. 156 by or before April 1, 1909.

(2) That said company comply with the requirements of subdivision (3) of said Order No. 156 by or before February 1, 1910.

(3) That said company may, at its option, in lieu of performing the construction work contemplated by subdivision (2) of said Order No. 156, construct an additional exit stairway at the Linden Street end of the station mentioned in said subdivision No. (2), and that the construction of such exit stairway (if constructed within the time specified in said subdivision No. (2), as hereby extended), shall be deemed a compliance by said company with the requirements of said subdivision (2) of said Order No. 156.

(4) *It is further ordered,* That this order shall take effect immediately and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

(5) *It is further ordered,* That said Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District by or before February 5, 1909, whether the terms of this order are accepted and will be obeyed.

Upon written applications by the company, the Commission, on April 2d, issued an order extending the time within which to comply with the terms of paragraph 2 of the above order (see blank form of extension order, page 8) to May 15th and on May 18th to July 15th.

CASE No. 998, HEARING ORDER AS TO COMPLIANCE WITH FINAL ORDER.

(August 20, 1909.)

It is hereby ordered, That a hearing be had on August 27, 1909, at 2:30 o'clock in the afternoon, or at any time or times to which the same may be adjourned, at the rooms of the Commission, No. 154 Nassau Street, in the Borough of Manhattan, City and State of New York, on the question of the compliance by the Brooklyn Union Elevated Railroad Company with the terms of the final order adopted by this Commission on December 16, 1907, and of the order after rehearing adopted on January 29, 1909, in Case No. 998, regarding stairways at the Gates Avenue Station of the Lexington Avenue Elevated Line.

Hearings were held August 27th, September 10th, October 11th and 14th.

Thereafter the Commission issued the following order:

REHEARING ORDER IN CASE No. 998.

(September 21, 1909.)

An order of the Commission, No. 156, having been made and filed herein on the 16th day of December, 1907, and having been duly served on the Brooklyn Union Elevated Railroad Company, paragraphs (2) and (3) thereof being as follows:

(2) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Gates Avenue Station and widen the stairway now leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed by or before April 10, 1908.

(3) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Halsey Street Station and widen the stairway leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed before April 10, 1908.

And the time for the completion of said work having been extended successively by the terms of Orders 345, 470 and 645 made herein on March 17, May 8 and July 21, 1908, respectively, to and including the 1st day of October, 1908; and the time for the completion of the work required by subdivision 2 of said Order No. 156 having been further extended by the Commission to April 1, 1909, and the time for compliance with the requirements of subdivision 3 of said Order No. 156 having been further extended to and including February 1, 1910, said last-mentioned extensions having been granted by order after rehearing Order No. 754, dated January 29, 1909; and said last-mentioned order having provided that said company might at its option, in lieu of performing the construction contemplated by said subdivision 2 of said Order No. 156, construct an additional exit stairway at the Linden Street end of the station mentioned in said subdivision No. 2; and the said Brooklyn Union Elevated Railroad Company having subsequently, under date of September 14, 1909, applied in writing to this Commission for a rehearing in respect to the matters contained in paragraphs (2) and (3) of the Final Order No. 156 above mentioned, as modified by said order after rehearing, dated January 29, 1908, and for an extension of time within which to comply with the terms of said paragraph No. 2, as modified, until such time as this matter shall have been finally determined by the Commission; and sufficient reason for said rehearing and for the grant of extension of time desired by the company having been made to appear, now, therefore, it is

Ordered, That said request for a rehearing be granted and that the said rehearing be held on the 4th day of October, 1909, at 2:30 o'clock in the afternoon, or at any time or times to which the same may be adjourned, at the rooms of the Commission, No. 154 Nassau Street, Borough of Manhattan, City and State of New York, to determine after such rehearing and after consideration of the facts, including those arising after the making of Order No. 156 and the aforesaid orders with reference to paragraphs (2) and (3) of said Order No. 156, whether paragraphs Nos. (2) and (3) of said Order No. 156, as subsequently modified, or any part thereof, are unjust or unwarranted, and whether the same should be abrogated, changed or modified.

And if it be found that said paragraphs, or any part thereof, should be abrogated, changed or modified, then to determine the nature and extent of any abrogation, change or modification and to determine the time of taking effect thereof as changed or modified.

All to the end that the Commission may make such order or orders in the premises as shall be just and reasonable.

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It is further ordered, That the said Brooklyn Union Elevated Railroad Company be given at least five days' notice of such rehearing by service upon it, either personally or by mail, of a certified copy of this order, and that at such rehearing said company shall be afforded all reasonable opportunity for presenting evidence and examining and cross-examining witnesses as to the matters aforesaid.

It is further ordered, That the time within which said company is required to comply with the terms of paragraph (2) of said Order No. 156, as modified by said order of January 29, 1909, be and the same hereby is extended until such time as the matters embraced in this hearing shall have been finally determined by the Commission.

Hearings were held on October 4th and subsequently until October 14th.

OPINION OF THE COMMISSION.

(Adopted October 29, 1908.)

COMMISSIONER BASSETT:—

On December 16, 1907, the Commission made a final order directing the Brooklyn Union Elevated Railroad Company by or before April 10, 1908, to construct an additional stairway from the gallery landing and widen the stairway leading from the gallery to the station platform at the Gates Avenue Station on its Broadway line. Thereafter several extensions of time for compliance were granted, the last being July 15, 1909. The transit inspection bureau reported August 14, 1909, that the terms of order were not complied with. Thereupon on August 20, 1909, the Commission instituted an inquiry in regard to compliance. Several hearings were held as to the company's compliance with the terms of the final order, at which hearings it was shown that the company's failure to complete the improvements in station facilities within the time prescribed by the Commission was due to the company's inability to secure the necessary permit promptly from the city authorities. In due course work was begun, but little progress had been made when the permit was withdrawn, the city authorities holding that the work had not progressed in accord with the permit. The testimony adduced at the hearings tends to show that the traffic conditions at this station have changed considerably since the final order (No. 156) was issued and by increase of the number of ticket sellers the former congestion at this and the Halsey Street station has been stopped. The company during the progress of the hearing formally applied for modification and extension of time to comply with the terms of the final order. This inquiry on compliance was continued until testimony was taken upon the application for modification of the order.

Under the circumstances I recommend that the proceedings upon the inquiry as to the company's compliance with section 2 of Final Order No. 156 be discontinued.

Thereupon the Commission issued the following order:

CASE No. 998, DISCONTINUANCE ORDER AFTER HEARING ORDER AS TO COMPLIANCE WITH FINAL ORDER.

(October 29, 1909.)

A hearing having been had on August 27, September 10, October 11 and October 14, 1909, before Commissioner Bassett, presiding, on the question

of compliance by the above-named company with the terms of subdivision No. 2 of Final Order No. 156, dated December 16, 1907, as modified by order dated January 29, 1909, with reference to additional stairways at the Gates Avenue Station on the Lexington Avenue Elevated line; and said company as a result of the institution of said hearing having applied for and had a rehearing in respect to the matters embraced in this hearing as a result of which rehearing an order has been made further modifying said subdivision No. 2 of Order No. 156, as modified by order dated January 29, 1909;

Now, therefore, it is

Ordered, That the hearing herein be and the same hereby is discontinued, and that this order be filed in the office of the Commission.

Subsequently the Commission issued the following order after rehearing:

ORDER AFTER REHEARING IN CASE No. 998.

(October 29, 1909.)

An order of the Commission, No. 156, having been made and served upon the Brooklyn Union Elevated Railroad Company, paragraphs (2) and (3) of said order being as follows:

(2) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Gates Avenue Station and widen the stairway now leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed by or before April 10, 1908.

(3) That said company construct an additional stairway from the gallery landing to the northerly side of Broadway at the Halsey Street Station and widen the stairway leading from the gallery to the station platform as much as the side stringers will allow; this work to be completed before April 10, 1908.

And several extensions of time having been granted to the company within which to comply with the terms of said paragraphs (2) and (3); and an order having been adopted on January 29, 1909, whereby said company was permitted in lieu of performing the construction work contemplated by said subdivision No. (2) to construct an additional exit and stairway at the Linden Street end of the station mentioned in said subdivision No. (2), and whereby said company was granted extensions of time within which to comply with the terms of said paragraphs (2) and (3); and said company having applied in writing under date of September 14, 1909, for a rehearing in respect to the matters determined in said paragraphs (2) and (3) as modified by said order of January 29, 1909, and said application having been granted; and said rehearing having been had by and before the Commission on October 4, October 7 and October 14, 1909, Commissioner Bassett presiding, H. H. Chamberlain, Esq., appearing for the Commission, and W. S. Menden, Esq., appearing for the railroad company; and testimony having been taken on said rehearing; and the Commission being of the opinion after such a rehearing and after a consideration of the facts, including those arising since the making of said Final Order No. 156 and the amendments thereto that subdivision No. (3) of said Order No. 156 should be abrogated and that subdivision No. (2) thereof, as heretofore modified, should be further modified in the manner hereinafter provided; now, therefore, it is

Ordered: (1) That said subdivision No. (3) of said Order No. 156 be and the same hereby is in all respects abrogated.

(2) That said subdivision No. (2) of said Order No. 156 be and the same hereby is amended and modified so as to read as follows:

(2) That said company widen the existing stairway leading from the gallery landing to the northerly side of Broadway at the Gates Avenue Station to the width of five (5) feet five (5) inches and widen the existing stairway leading from the station platform to the gallery

landing to a width of eight (8) feet three (3) inches; this work to be performed in accordance with the Brooklyn Rapid Transit Company Plan No. 6199, dated August 30, 1909, also designated \$447, with modifications in ink, which plan as so modified was marked for identification as Exhibit No. 2 on hearing had on October 7, 1909; this work to be completed by or before December 1, 1909.

(3) *It is further ordered*, That the permission of this Commission be and it hereby is granted to the Brooklyn Union Elevated Railroad Company to remove from the Gates Avenue Station and the highway and sidewalk adjacent thereto such portion of any new stairway at said station as may have been erected in partial compliance with the terms of said subdivision No. (2) of Order No. 156 as originally adopted.

(4) *It is further ordered*, That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

(5) *It is further ordered*, That the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District on or before November 3, 1909, whether the terms of this order are accepted and will be obeyed.

On December 3d, the Commission issued an order extending the time of the company for completing the work to December 15, 1909 (see blank form of extension order, page 8).

Brooklyn Union Elevated Railroad Company.— Inadequate station facilities at Wyckoff Avenue station, Myrtle Avenue elevated line.

Case No. 1112

Complaint Order
Extension Order
Hearing Order
Order of the Commission
Final Order
Order Approving Plans

This proceeding was begun upon the complaint of the 'Wyckoff Heights Taxpayers' Association against the company alleging that station facilities at Wyckoff Avenue station, Myrtle Avenue elevated line, were inadequate. The Commission, on May 28, 1909, issued a complaint order (see blank form of complaint order, page 7), and, on June 15th, issued an order (see blank form of extension order, page 8) extending the time for the company to answer the complaint order to June 21st. The Commission, on June 25th, issued an order directing (see blank form of hearing order, page 8) that a hearing be had on August 10th. A hearing was had on said date.

OPINION OF THE COMMISSION.

(Adopted August 20, 1909.)

COMMISSIONER BASSETT:—

This is a proceeding upon the complaint of the Wyckoff Heights Taxpayers' Association and Henry Werner, its president. The complainants allege that the Wyckoff Avenue station of the Myrtle Avenue line of the defendant is not supplied with adequate stairways to the street and that the present stairway leading from the interior of the frame building adjoining the station is insufficient, inadequate and improper. The company in its answer does not specifically deny the allegations of the complaint, but states that it will investigate, see what can be done and advise the commission definitely in the future. Thus far the company has not proposed any alteration of the present stairways.

Hearings have been held and photographs, measurements and counts have been placed in evidence. I have also personally viewed the premises while the proceedings were in progress. The Wyckoff Avenue station is at the point nearest where the Myrtle Avenue Elevated Line leaves the elevated structure, descends to the surface and proceeds northeasterly on the former right of way of the Bushwick Railway Company. It was formerly the terminus of the Myrtle Avenue Elevated Line and for many years has been a most important transfer point. Here begin a number of street surface railroads leading to various parts of the Borough of Queens. It is in the centre of a locality that has grown rapidly and is now very thickly populated. There is the usual platform and elevated station in the street at the point where Myrtle Avenue and Wyckoff Avenue come together at an acute angle. Stairways lead from the platforms to a passageway under the tracks and this passageway leads into a frame building on the northerly side of Wyckoff Avenue, which is owned by the company and used by it for offices and a resort for employees. This passageway leads directly through the second floor of this frame building to a broad stairway in the rear. This stairway is of ample capacity for passengers seeking to take the surface cars that start from the yard which lies north of the frame building. Persons using this wide stairway, however, find themselves landed in the starting yard of the various Queens County Lines, and if they desire to proceed along Wyckoff Avenue they must find their way out of the yard by a circuitous route. If they go to Wyckoff Avenue on the westerly side of the frame building they must pass over car tracks and avoid cars that are switching for position. If they go to the easterly side of the frame building, those passengers who desire to walk westerly on Wyckoff Avenue toward the neighborhood where the main local population dwells, are compelled to make quite a long detour. For instance, a person living in the Wyckoff Avenue locality near this station, disembarking from an elevated train, alights on a platform that is on Myrtle Avenue but at a height of two stories above the street level. To get to a point directly below on Myrtle Avenue he needs to go down the stairs to the above mentioned passageway, thence proceed north into the frame building, then through the frame building and still proceeding north down the broad stairway into the company's starting yard, thence around the frame building to the east, then south to Wyckoff Avenue, thence along Wyckoff Avenue to the point

above where he stood several minutes before. The company recognizing this inconvenience opened to the public an old stairway that led from the second floor of the frame building to Wyckoff Avenue. This is such a staircase as one usually sees in frame buildings built on the street line and intended for two or more families. It is three feet wide and entirely closed in on the sides and top. While it was never constructed or intended for its present use it has served a useful purpose in allowing quick access to the street from the passageway. Its generous use shows that the public finds it a great convenience. When evening trains discharge their passengers at this station a stream of people descends this stairway in single file for the space of several minutes. Sometimes the crowd congests at the head of the stairs and people have to wait their turn to go down. While people are going down like this no one can come up. The result is that passengers accumulate at the foot of the staircase waiting for the stream to end. All these people whether going up or down can avoid the annoyance of this narrow stairway by using the broad stairway that descends to the starting yard north of the frame building, but, as I have pointed out, they would need to take the roundabout route between the yard and the street. The question is here squarely presented whether it is the duty of the company to furnish an adequate street approach by a tolerably direct route. The Wyckoff Avenue Station is one of the most important elevated stations in the city. It is in the centre of the public street and yet it has no stairway leading to the public street except the old narrow house staircase that I have described. It seems to me that the company does not fairly meet the issue by saying that those who do not want to use the narrow staircase can use the broad stairway leading north to the starting yard, because the public are entitled to a reasonably direct access to the public street. The narrow staircase is, in my opinion, unsafe, inadequate and improper, and this being so the company should provide an adequate, safe and proper stairway leading by a fairly direct route to Wyckoff or Myrtle Avenue. If the present staircase can be widened, rearranged and made proper, safe and adequate, I see no reason why this should not be done if the company so prefers, because there will probably be a future rearrangement of this entire situation and any stairway now erected must be considered to a large extent temporary. However, if the company cannot reconstruct the present staircase so as to meet the requirements of the public it must erect a staircase leading from the passageway to the street. The company should before October 1st, 1909, file with the Commission the plan of a stairway that will fulfill the requirements and by December 1st, 1909, the new stairway should be completed and ready for use in accordance with such plan. I recommend that an order be made accordingly.

Thereupon the Commission issued the following order:

<p>WYCKOFF HEIGHTS TAXPAYERS' ASSOCIATION, Complainant, <i>against</i> BROOKLYN UNION ELEVATED RAILROAD COMPANY, Defendant.</p>	<p>Case No. 1112, Final Order. August 20, 1909.</p>
<p>"Inadequate Station Facilities at Wyckoff Avenue Station, Myrtle Avenue Elevated Line."</p>	

A hearing order having been duly made by the Commission on June 25, 1909, upon the complaint of the Wyckoff Heights Taxpayers' Association, dated April 12, 1909, and answer of the Brooklyn Union Elevated Railroad Company, dated June 21, 1909, and a hearing having been duly held before the Commission pursuant to said hearing order on August 10, 1909, before Commissioner Bassett, presiding, W. F. Menden, Esq., appearing for the Brooklyn Union Elevated Railroad Company, and Arthur DuBois, Esq., attending for the Commission, and the Commission being of opinion after said hearing that repairs, improvements and changes should be made in the property used by the Brooklyn Union Elevated Railroad Company in the Wyckoff Avenue Station on its Myrtle Avenue Elevated Line;

Now, therefore, it is

Ordered: (1) That the Brooklyn Union Elevated Railroad Company provide a safe, adequate and proper stairway from its Wyckoff Avenue Station platform to Wyckoff Avenue on Myrtle Avenue, either by the alteration and reconstruction of the existing stairway located in the frame house adjoining the station platform, or by the construction of a new stairway from the station platform to Wyckoff Avenue on Myrtle Avenue.

(2) That on or before October 1, 1909, the Brooklyn Union Elevated Railroad Company file with the Public Service Commission for the First District for its approval plans and specifications of the proposed new or reconstructed stairway, showing method of lighting and other details.

(3) That within sixty days from the time when the plans and specifications filed as aforesaid are approved by the Public Service Commission for the First District, the Brooklyn Union Elevated Railroad Company shall have completed and ready for use a stairway as above described.

Further ordered: That within five days after service of this order upon it, the Brooklyn Union Elevated Railroad Company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

CASE NO. 1112, ORDER APPROVING PLANS.

(October 15, 1909.)

WHEREAS, Brooklyn Union Elevated Railroad Company, pursuant to the provisions of final order herein, has submitted to this Commission for approval blue-print plan, dated September 20, 1909, No. 9,787, showing changes in stairway and station arrangement; and

WHEREAS, The proposed stairway improvement is in accordance with the order of the Commission,

Now, therefore, it is

Resolved, That said blue-print plan showing general arrangement and proposed changes in stairway and station at Wyckoff Avenue, dated September 20, 1909, Plan No. 9,787, be and the same hereby is approved.

Brooklyn Union Elevated Railroad Company.—Proposed elevated station at Jerome Street and Pitkin Avenue.

Case No. 1140

The Secretary, on July 13, 1909, presented a petition to the Commission from Robert F. Craig and other property owners and residents of the Twenty-sixth Ward, Brooklyn, asking for the establishment of a new station on the Fulton Street elevated line at Jerome Street and Pitkin Avenue, and on motion, duly seconded, a hearing in Case No. 1140 was directed under Order No. 615 to be held on July 29, 1909, at 10 A. M., to investigate whether or not such station should be constructed by the Brooklyn Union Elevated Railroad Company.

Hearings were held on July 29th and November 4th. No further action during 1909.

Interborough Rapid Transit Company.—Proposed station on Columbus Avenue at intersection of 99th Street.

Case No. 254

Opinion of the Commission
Discontinuance Order

This proceeding was instituted in 1908 against the company to inquire whether it should be directed to construct and maintain a station on Columbus Avenue at the intersection of 99th Street. Hearings were held during that year and on February 25, 1909, and subsequently until April 1, 1909.

OPINION OF THE COMMISSION.

(Adopted April 23, 1909.)

COMMISSIONER EUSTIS:—

This matter was taken up by the Commission after receiving complaints from various property owners in the vicinity of 99th Street and Columbus Avenue, and a resolution adopted by the Board of Aldermen on March 3, 1908, wherein they resolved that the Public Service Commission be, and hereby is, urged to direct the erection of a new station on the elevated railroad at 99th Street and Columbus Avenue in the Borough of Manhattan, and giving their reasons therefor. Hearings were had extending from February, 1908, to April 1, 1909.

There were quite a number of property owners in the vicinity of 99th Street and Columbus Avenue who appeared and testified that, in their opinion, a new station on the elevated at this point was necessary.

Ninety-ninth Street is about half way between the two stations now maintained on the elevated, one at 93d Street and the other at 104th Street, being six blocks from 93d Street Station, and five blocks from the 104th Street Station.

The Interborough Railroad Company opposed this application on three grounds:

(1) While it was willing to admit that the station would be a convenience to a few property owners immediately surrounding this point, it would be a great inconvenience to a large number of other patrons who traveled along the line north thereof, on account of the fact that it would cause another stop and make the running time so much slower.

(2) That at this point the elevated railroad is upwards of fifty feet from the surface, and to build a station at this point would naturally require escalators, and it would be very expensive, costing, in the judgment of the company, at least \$150,000.

(3) The third reason given was that the company had no legal right to construct a station at this point.

After this testimony had been given on behalf of the company, an effort was made by the property owners to see whether the third objection could not be removed by getting all of the property owners to consent to the construction of a station and sign a release for any claim for damages, and one or two of the principal complainants undertook, in the spring of 1908, to see whether all of the property owners could not be induced to sign such a release. Several property owners who took an active interest in the hearing expressed their willingness to sign, and subsequently did sign, and Mr. Henry Kroogman, one of the most active of the complainants, stated that they would not ask the railroad company to go to this expense for their benefit, unless all of the property owners signed the releases, stating that it would be very unfair for some of the property owners to hold out for damages, and then get an award, while other property owners were willing to waive all claims for damages.

Mr. Bryan, who was at that time vice-president and manager of the defendant company, stated at one of the hearings that he would not like to say that they would not build a station if they secured the consents, because he did not know what the financial condition was going to be, and that he would like very much to have more people ride on the elevated roads and not crowd the subway; that he had had an estimate made for the construction of a station at this point, and that the same with escalators would cost something like \$125,000 or \$150,000; and, when asked whether he would be willing to promise the complainants that the company would erect the station if consents were granted so that no additional claim against the company for damages would accrue, and they were given a year within which to do it, he replied that he would hate to commit the company as to any fixed time, that they were in the same condition in regard to another station at 86th Street, and that he would not wish to promise to build a station within a year; and it was subsequently agreed between Mr. Bryan and the complainants that they should go ahead and see if they could get all the consents, and not turn them over until something definite was fixed.

By the first of April, 1908, a petition was signed by nine of the property owners for a new station, promising that they would give the necessary release. The committee then went on for some months endeavoring to secure from the property owners a release that had been prepared by the attorney for the railroad company. They found that some of them were absent in Europe, others had died, and their executors and administrators had to be consulted. This consumed the time during the summer and fall of 1908, and in the early winter the matter was again taken up in order to see if the consents of all the property owners could be obtained, and down to the close of the hearing on the first day of April, 1909, it appears that only nine out of the twenty property owners affected, being one hundred and twenty-five feet north and south of 99th Street on both sides of Columbus Avenue, had signed the necessary release. Some of the property owners appeared at the later hearings and stated that they considered there was no necessity for a station at this point, and claimed that the platform would darken their rooms and damage their properties. Some of the property owners claimed that they would not object to the construction of the station, providing the stairs or escalators leading to the station came down on Columbus Avenue adjacent to their property and not on the side street. Other property owners appeared and took the opposite position, stating that they would consent and release provided the stairs or escalators would be constructed on 99th Street and not on Columbus Avenue. There were only nine, one less than half of the property owners affected, who were willing to sign the consent and release without any condition whatever.

The Interborough Rapid Transit Company at the later hearings took a more definite stand than when the hearings were first taken up. Mr. Bryan had left the company, and Mr. Frank Hedley had been elected vice-president and general manager in his place, and he took the position positively that a station was not required and would be a far greater detriment to the traveling public than it would be a benefit, that while it would benefit a few it would discommode a very large number.

The parties desiring the station called attention to the fact that the company had erected a station at 130th Street and at 110th Street on this line long after the road was constructed. The evidence shows that at 110th Street where the station was constructed the company owned the abutting property, and that at 130th Street they got all the consents from the property owners before they began the work.

At 99th Street, the railroad is over fifty feet from the surface, and the cost of constructing the station would be great compared to what it would be if it was only of the height of 93d or 104th Street, where the tracks are only about sixteen feet above the surface, and considering the necessity of establishing two escalators in order to make the station what it should be if constructed.

As a majority of the property owners refuse to join the complainants and give the railroad company the necessary releases, I would therefore recommend for the present that the proceedings be dismissed without prejudice to being reopened, and I submit an order accordingly.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission as to the
Regulations, Equipment and Service of the IN-
TERBOROUGH RAPID TRANSIT COMPANY
in Respect to the Necessity of a New Station at
99th Street on the Ninth Avenue Elevated Line.

Case No. 254,
Order of
Discontinuance.
April 23, 1909.

An order, known as Hearing Order No. 254, having been duly made by the Commission on February 11, 1908, on its own motion on the question of improvement of service and equipment of the Interborough Rapid Transit Company in respect to the construction of an additional station at 99th Street on the Ninth Avenue Elevated Line, and said hearing having been duly held on February 25, March 3, March 17, March 31, April 20, 1908, and on February 25, March 8, March 24, March 30 and April 1, 1909, before Mr. Commissioner Eustis, presiding, Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, Alfred A. Gardner, Esq., appearing for the Interborough Rapid Transit Company, and testimony having been taken and it being in the opinion of the Commission inadvisable at the present time to order changes in construction or equipment at 99th Street on the Ninth Avenue Elevated Line;

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is in all respects discontinued and that this order be filed in the office of the Commission.

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said Hearing Order No. 254 or by the proceedings thereon.

Further ordered, That a copy of this order be served on the Interborough Rapid Transit Company.

**Interborough Rapid Transit Company.—Escalator at station at
125th Street and Eighth Avenue.**

Case No. 391

Final Order
Extension Orders

This case was begun in 1908 upon the complaint of the board of aldermen against the company regarding the installation of an escalator at the station at 125th Street and Eighth Avenue. Hearings were held during that year and on January 12th and 19th, 1909. The Commission issued the following order:

BOARD OF ALDERMEN,
against Complainants,
INTERBOROUGH RAPID TRANSIT COMPANY.
Defendant.
“Escalator at Station at 125th Street and Eighth
Avenue.”

After Hearing Order No. 391.

Case No. 391,
Final Order.
February 5, 1909.

This matter coming on upon the report of the hearing had herein on April 15, May 6, May 20, October 26, November 10, November 17, December 1,

December 8, December 15, December 22 and December 29, 1908, and January 12 and January 19, 1909, and it appearing that said hearing was had pursuant to Hearing Order No. 391 issued by the Commission, dated the 3d day of April, 1908, and returnable on the 15th day of April, 1908; and it appearing that said hearing order was issued after complaint made by the Board of Aldermen and after the answer of the Interborough Rapid Transit Company thereto; and it appearing that said hearing order was duly served on said Interborough Rapid Transit Company and that such service was by said company duly acknowledged; and it appearing that said hearing was had by and before the Commission on the dates aforesaid before Mr. Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, Alfred A. Gardner, Esq., and Theodore L. Waugh, Esq., attorneys, appearing for said Interborough Rapid Transit Company; and testimony having been taken upon said hearing; and it having been made to appear in the judgment of the Commission, after the proceedings on said hearing, that changes and improvements in and additions to the station of said Interborough Rapid Transit Company upon its elevated line at 125th Street and Eighth Avenue, in the City of New York, in and in connection with the transportation of passengers upon its elevated lines, in the particulars following, ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers; and it having been made to appear after the proceedings on said hearing that the time hereinafter mentioned would be a reasonable time within which such changes, improvements and additions should be directed to be made, now, therefore,

It is ordered: (1) That said Interborough Rapid Transit Company be and it hereby is directed and required to construct and erect and thereafter maintain and use at said station at 125th Street and Eighth Avenue an escalator, in accordance with the plans and designs annexed to the consent granted to said company for the erection of said escalator, and known and described as "Drawing No. 1, miscellaneous, 1001, indorsed Public Service Commission for the First District, Chief Engineer's office,—title, sketch showing scheme for installation of escalator at 125th Street and 8th Avenue elevated station, east side,—date November 30, 1908.—scale $1/8" = 1 \text{ ft.}$,—H. B. Seaman, Chief Engineer,—drawn by H. E. Martin, checked by R. H. P.,—revised December 17, 1908,—escalator girder changed from 4' 1" to 5' 8-3/8"."

(2) That said escalator be erected by said company on or before the 1st day of August, 1909.

(3) That this order shall take effect immediately and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

(4) That said Interborough Rapid Transit Company notify the Public Service Commission for the First District on or before the 10th day of February, 1909, whether the terms of this order are accepted and will be obeyed.

Upon written application by the company for extensions of the time within which the above order should take effect the Commission, on March 23d, extended (see blank form of extension order, page 8) the time to October 1, 1909, and subsequently to January 1, 1910, and to April 1, 1910.

Interborough Rapid Transit Company.—Escalators at 155th Street elevated station on Eighth Avenue.

Case No. 459

This proceeding was begun in 1908 upon the complaint of the Republican District Committee by David G. McConnell, against

the company regarding the installation of escalators at the station at 155th Street and Eighth Avenue. Hearings were held during 1908 and on January 12, 1909, and subsequently until April 27, 1909. No further action during 1909.

Interborough Rapid Transit Company.—Additions to 92d Street station, Second Avenue elevated.

Case No. 494
Order after Hearing Order
No. 545 and Final Order
No. 494
Extension Orders

This proceeding was begun in 1908 upon motion of the Commission to determine whether additions should be made to the 92d Street station of the Second Avenue elevated line of the company and a final order issued in 1908. The Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission as to the
Regulations, Practices, Equipment and Service
of the INTERBOROUGH RAPID TRANSIT
COMPANY.
—
“Additions to 92d Street Station, Second Avenue
Elevated.”
—
After Final Order No. 494 and after Rehearing
Order No. 545.

Case No. 494.
Order after Rehearing
Order No. 545 and
Final Order No. 494.
January 26, 1909.

This matter coming on upon the report of the hearing had herein on June 8, July 28, October 5, October 19, October 26 and November 10, 1908; and it appearing that said rehearing was had pursuant to a Rehearing Order No. 545, dated the 2d day of June, 1908, and returnable on the 8th day of June, 1908; and it appearing that said Rehearing Order No. 545 was issued at the request of the Interborough Rapid Transit Company after service on said company of Final Order No. 494, dated May 15, 1908; and it appearing that said Rehearing Order No. 545 was duly served on said Interborough Rapid Transit Company, and that said service was by said company duly acknowledged; and it appearing that said rehearing was had by and before the Commission on the dates aforesaid before Mr. Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and Theodore L. Waugh, Esq., attorney, appearing for said Interborough Rapid Transit Company; and testimony having been taken upon said rehearing, and the Commission being of the opinion after such rehearing and after a consideration of the facts, including those arising since the making of said

Final Order No. 494, that said Final Order No. 494 is not unjust or unwarranted, and that the same should not be abrogated, changed or modified except that a slight modification thereof should be made in the way of an extension of time, as hereinafter provided, and that the time hereinafter specified would be a reasonable time within which to require that the construction specified in said order should be completed;

Now, therefore, it is

Ordered, That said Final Order No. 494 be and the same hereby is modified *nunc pro tunc* as of the 15th day of May, 1908, so as to read as follows:

FINAL ORDER NO. 494.

This matter coming on upon the report of the hearing had herein on the 12th day of February, 1908, 20th day of February, 1908, 12th day of March, 1908, and 17th day of March, 1908, and it appearing that said hearing was had pursuant to Order No. 226 of this Commission dated the 31st day of January, 1908, and returnable on the 12th day of February, 1908, and it appearing that the said order was duly served on the Interborough Rapid Transit Company on the 1st day of February, 1908, and that such service was by it duly acknowledged, and it appearing that said hearing was had by and before the Commission on the matters specified in said Order No. 226 on the aforesaid dates before Mr. Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, and Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Alfred A. Gardner, Esq., attorney, appearing for said Interborough Rapid Transit Company, and proof having been taken upon said hearing, and it having been made to appear after the proceedings on said hearing that changes in and improvements and additions to the 92d Street Station of said company upon its Second Avenue Elevated Line in the City and State of New York, and the passageways and stairways appurtenant thereto in the particulars following ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate facilities for the transportation of passengers, namely:

(1) That the underhanging gallery or transverse passageway at said station should be extended farther to the east than at present to such an extent and in such manner as to form a counterpart of the underhanging gallery or transverse passageway now existing at said station, and to permit the construction of a stairway therefrom to the walk on the easterly side of Second Avenue, which stairway shall be at least as wide as the stairway now existing on the westerly side of said avenue and in such manner that said underhanging gallery or transverse passageway will afford access to and an exit from the main stairway at said station extending from said underhanging gallery or transverse passageway to the train platform.

(2) That a stairway should be constructed from the easterly end of said underhanging gallery or transverse passageway when the same shall have been extended as aforesaid, to the sidewalk on the easterly side of Second Avenue in such manner that such stairway will be at least as wide as the stairway now existing on the westerly side of said avenue.

(3) That the width of the main stairway leading from said underhanging gallery or transverse passageway to the train platform at said station should be increased so that the same shall be not less than seven feet in width.

And it appearing to the Commission after the proceedings on said hearing that the time intervening between the date of this order and the 1st day of May, 1909, would be a reasonable time within which the changes, improvements and additions hereinbefore specified should be directed to be made.

Now, on motion of George S. Coleman, Esq., Counsel to the Commission,

It is ordered: (1) That said Interborough Rapid Transit Company be and it hereby is directed and required to extend the underhanging gallery or transverse passageway now existing at said station farther to the east than at present to such an extent and in such manner that the portion so extended shall form a counterpart of the passageway now existing at said station, and shall permit the construction of a stairway therefrom to the walk on the

easterly side of Second Avenue, which stairway shall be at least as wide as the stairway now existing on the westerly side of Second Avenue, and in such manner that said underhanging gallery or transverse passageway will afford access to and an exit from the main stairway at said station extending from said underhanging gallery or transverse passageway to the train platform at said station.

(2) That said Interborough Rapid Transit Company be and it hereby is directed and required to construct a stairway from the easterly end of said underhanging gallery or transverse passageway when the same shall have been extended as aforesaid, to the sidewalk on the easterly side of Second Avenue in such manner that such stairway will be at least as wide as the stairway now existing on the westerly side of said avenue.

(3) That said Interborough Rapid Transit Company be and it hereby is directed and required to increase the width of the main stairway extending from said underhanging gallery or transverse passageway to the train platform at said station so that the said stairway shall be not less than seven feet in width.

(4) *It is further ordered*, That the changes, improvements and additions hereinbefore specified be made by said Interborough Rapid Transit Company and completed by said company not later than the 1st day of May, 1909.

(5) *It is further ordered*, That the said Interborough Rapid Transit Company notify the Public Service Commission for the First District within five days after the service of this order upon it whether the terms of this order are accepted and will be obeyed.

(6) *It is further ordered*, That this order shall take effect immediately, and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

It is further ordered, That said Interborough Rapid Transit Company notify the Public Service Commission for the First District within five days after service of this order, modifying Final Order No. 494, whether the terms of said order are accepted and will be obeyed.

Upon written application by the company for extensions of the time within which the above order should take effect, the Commission, on April 21st, extended the time to July 15th, and subsequently to August 15th, and to September 15, 1909.

Interborough Rapid Transit Company.— Enlargement of south-bound platforms at 116th Street station on the Third Avenue elevated road.

Case No. 552

Final Order

Extension Order

Order modifying Final Order

This proceeding was begun in 1908 on motion of the Commission against the company regarding the enlargement of south-bound platforms at 116th Street station on the Third Avenue elevated road. The Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission as to
Regulations, Practices, Equipment and Service
of the INTERBOROUGH RAPID TRANSIT
COMPANY.

"Enlargement of Southbound Platform at 116th
Street Station of the Third Avenue Elevated
Line."

Under Hearing Order No. 552.

Case No. 552.
Final Order.
March 12, 1909.

The Commission being of the opinion after hearing held on June 15, 1908, and June 29, 1908, before Mr. Commissioner Eustis, that the appliances and equipment of the Interborough Rapid Transit Company at its 116th Street Station of the Third Avenue Elevated Line in the Borough of Manhattan are in certain respects unreasonable, unsafe and inadequate and in the judgment of the Commission certain improvements in the 116th Street Station platform being such as ought reasonably to be made,

Now, therefore, it is

Ordered, That the Interborough Rapid Transit Company be and it hereby is required to widen the southbound station platform at its 116th Street Station of the Third Avenue Elevated Line so that the portions of that platform now only five feet ten inches in width and that portion of the said platform now only three feet in width shall be not less than eight feet in width and that the supports for the roof canopy at the edge of platform nearest to the track be so placed as not to present any obstruction to entering and disembarking passengers.

And it is further ordered, That the said improvements shall be completed not later than the first day of April, 1909.

And it is further ordered, That before the 20th day of March, 1909, the said Interborough Rapid Transit Company shall notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

The Commission, on March 23d, extended (see blank form of extension order, page 8) the time within which the above order should take effect to April 1st and subsequently to April 15th and to May 1st.

In the Matter
of the
Hearing on the Motion of the Commission as to
Regulations, Practices, Equipment and Service
of the INTERBOROUGH RAPID TRANSIT
COMPANY.

"Enlargement of Southbound Platform at 116th
Street Station of the Third Avenue Elevated
Line."

Case No. 552,
Order Modifying Final
Order.
April 16, 1909.

An order having been made by this Commission on March 12, 1909, and the Interborough Rapid Transit Company having applied to this Commission for a modification of the terms of said order, and the Commission being of

opinion, after a consideration of all the facts, that it is just, reasonable and proper that said order should be modified in the manner hereinafter set forth,

It is hereby ordered, That said order of March 12, 1909, be and it hereby is amended and modified so that the said order as amended and modified shall read as follows:

CASE NO. 552, FINAL ORDER.

The Commission being of the opinion after hearing held on June 15, 1908, and June 29, 1908, before Mr. Commissioner Eustis, that the appliances and equipment of the Interborough Rapid Transit Company at its 116th Street Station of the Third Avenue Elevated Line, in the Borough of Manhattan, are in certain respects unreasonable, unsafe and inadequate, and in the judgment of the Commission certain improvements in the 116th Street Station platform being such as ought reasonably to be made, now, therefore,

It is ordered, That the Interborough Rapid Transit Company be and it hereby is required to widen the southbound station platform at its 116th Street Station of the Third Avenue Elevated Line so that all portions of that platform shall be at least six feet, six inches wide in the clear, and that the supports for the roof canopy at the edge of the platform nearest to the track be so placed as not to present any obstruction to entering and disembarking passengers; and it is

Ordered, That said improvements shall be completed not later than May 15, 1909;

And it is further ordered, That before the 22d day of April, 1909, the said Interborough Rapid Transit Company shall notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

Interborough Rapid Transit Company.—Additions to platforms and stairways at Christopher Street station on Ninth Avenue elevated road.

In the Matter
of the
Hearing on the Motion of the Commission as to the
Regulations, Practices, Equipment, Appliances
and Service of the INTERBOROUGH RAPID
TRANSIT COMPANY.

“Additions to the Platforms and Stairways at the
Christopher Street Station of the Ninth Avenue
Elevated Railroad.”

Case No. 626,
Order of Discontinuance.
May 7, 1909.

An order, known as Hearing Order No. 626, having been duly made by the Commission on July 10, 1908, on its own motion on the question of the regulations, practices, equipment, appliances and service on the Christopher Street Station of the Ninth Avenue Elevated Line, and said hearing having been duly had on July 28, August 6 and August 13, 1908, before Mr. Commissioner Eustis, presiding, Arthur DuBois, Esq., Assistant Counsel, appearing for the Commission, and Alfred E. Mudge, Esq., appearing for the railroad company, and it being in the opinion of the Commission inadvisable to order additions to the Christopher Street Station of the Ninth Avenue Elevated Line.

Now, therefore, it is

Ordered, That the proceeding be and the same hereby is in all respects discontinued, and that this order be filed in the office of the Commission;

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said Hearing Order No. 626, or by the proceedings thereon;

And it is further ordered, That a copy of this order be served on the Interborough Rapid Transit Company.

Interborough Rapid Transit Company.—Additional stairway at 161st Street station on the Third Avenue elevated road.

Case No. 852

This proceeding was begun in 1908 upon motion of the Commission to determine whether improvements and additions should be directed at the 161st Street station of the company on its Third Avenue line, and a final order issued in 1908. On January 29, 1909, the Commission issued an order extending (see blank form of extension order, page 8) the time within which said final order should take effect to April 1, 1909.

Interborough Rapid Transit Company.—Inadequate transportation facilities at stations of the Third Avenue elevated road in the Borough of The Bronx.

Case No. 1007

Opinion of the Commission
Final Order
Extension Orders

This proceeding was begun in 1908 against the company regarding inadequate transportation facilities at stations on its Third Avenue elevated line in the Borough of The Bronx. Hearings were held during 1908 and on January 5, 1909, and January 19, 1909.

OPINION OF THE COMMISSION.
(Adopted January 26, 1909.)

COMMISSIONER EUSTIS:—

In the matter of the complaint of the Taxpayers' Alliance of The Bronx, and the North Side Board of Trade of The Bronx, against the Interborough Rapid Transit Company, for failure to provide adequate transportation facilities in the Borough of The Bronx. in that 149th Street Station did not provide adequate accommodations for the entrance and exit of passengers, and also that the east side platform at said station was not

covered; and that the 161st Street Station was inadequate on account of there being no exit or entrance on the east side of the avenue, whereby passengers were compelled to cross the Union Railway Company's tracks, which were at all times dangerous; and a similar allegation of inadequacy at the 166th Street, 169th Street and 174th Street Stations, except that at the 166th Street and 169th Street Stations there was no exit or entrance from the west side of the street, the present entrance and exit being upon the east side at those stations; and that there was need of a new station at 180th Street, on account of the long distance between 177th Street and 183d Street stations; and that the third tracking of the elevated railroad to Bedford Park, and the removal of all of the island stations, would greatly improve the transit facilities of this road in the Borough of The Bronx.

Under the general complaint of inadequacy the complainants at the hearing produced evidence tending to show that the station at 177th Street was also inadequate in its stairway and station facilities.

T. F. Dempsey also made a complaint against the same company, on the 2d day of November, 1908, as to the inadequacy of the station facilities at 133d Street.

These complaints were all heard together, and taking them in their order we will consider the complaint against the 133d Street Station first:

The evidence as to this station shows that the railroad from 133d Street to 134th Street runs over a private right of way, the station being located at 133d Street, and the platform extending the whole distance between 133d and 134th Street; that from eighty to ninety per cent of the passengers using this station come from 134th Street, and have to pass under the elevated tracks to 133d Street; and then go up through the station, purchase their tickets, and then walk back along the platform all the way to 134th Street in order to enter the cars at different points; and passengers alighting from the cars at this station, especially those at the forward end of the train, have to walk the whole length of the platform to 133d Street, pass down to the street, and then retrace their steps down under the tracks to 134th Street, or at least 90 per cent of them do so; and it was shown that an entrance at 134th Street would certainly be a very great convenience to the majority of the passengers using this station.

There was a failure of proof to show that the present stairways were not adequate nearly all of the time to accommodate the passengers, and the complainants before the hearing closed stated that they would be satisfied if an exit was provided at 134th Street at this station, which would accommodate the passengers going that way.

It was also shown that especially at night it was quite dangerous for passengers traveling through the passageway underneath the tracks going home, as this passageway was very poorly lighted, and it furnished a very tempting place for hold-ups.

I would therefore recommend as to this station that the railroad company be required to furnish a stairway for exit at the north end of the station platform connecting with 134th Street.

As to the complaints relating to 149th Street, the complainants were informed at the hearing that this matter had been up for consideration in regard to the inadequate facilities for some time by the Commission upon

its own motion, and that as to the open platform upon the east side of the tracks the railroad company was already constructing, under the order of this Commission, a new covered platform, with covered stairways, and the same would be finished in a very short time; and that as to the additional platform upon the west side of the street, which had been agreed upon by the railroad company and the Commission, the platform could not be constructed until the consent of the abutting property owners could be secured, that the railroad company up to the present time had not been able to make terms with the property owners, and that it would be necessary either to proceed to condemnation, which would take a long time, or to discontinue the use of transfers from the elevated to the subway, which was the only cause of the necessity of this west side platform. Therefore, during the hearings on this complaint no testimony was taken relating to this station on account of the matter being already under investigation and action by this Commission with the railroad company direct.

As to 161st Street Station, no evidence was taken on the hearing, as the complainants were informed that a previous complaint had been made as to the inadequacy of this station, and an additional stairway had been ordered by the Commission some time ago, and would be erected within a very short time.

Evidence was offered as to the inadequacy of the 166th Street Station, which has only one entrance from the east side of the street. The testimony shows that these stairways are used during the morning rush-hour to their fullest capacity, but at no time was it shown that there was any congestion of any kind that caused any appreciable delay to the passengers in passing to and from the station or the station platform.

The same situation exists as to 169th Street Station. During the rush-hours the stairways leading to and from the station are carrying about all that they are able to carry. The witnesses produced by the complainants urged that there was congestion at times during the rush-hours, but they did not testify that there was any delay of any moment. The expert of the Commission, who examined this station, as well as the others, testified that there was no appreciable delay.

There was no proof offered by the complainant as to the allegation in the complaint that it was dangerous for people passing from the west side to the east side of the street over the Union Railway tracks, in order to reach the station stairs.

At these two stations the Union Railway has only one line of cars, and they run on about a four-minute headway at the time of the greatest travel upon the elevated railroad, and it does not appear to me that there is any danger whatever on such long headway of the surface trolley line to the people getting across.

The district adjacent to each of these stations, 166th Street and 169th Street, is not yet fully developed, but is growing rapidly, and it will not be long before the present stairways will be inadequate to accommodate the travel during the rush-hours, and, in order that we may not always be behindhand in ordering necessary facilities for the increased travel that is bound to come within a limited time, I would recommend that the railroad company be requested to take the situation at these two stations under

serious consideration, and that they be admonished that unless they do provide within a year additional stairways approaching these stations from the west side of the street that this Commission at that time may be compelled to order them to do so.

The testimony on behalf of the complainants as to the 174th Street Station was also to the effect that during rush-hours there was some congestion, but no evidence was given as to any delay caused by the fact that this station has only one stairway from the west side of the street.

Nearly all of the property lying adjacent to the east side of the station, excepting one block, is park property and has no residential population. At certain times of the year a great many travelers use this station to go to and from the park, but the evidence submitted by the inspector for the Commission, and also from the sale of tickets, shows that the travel there is not over two-thirds of what it is at 166th and 169th Streets, and for the present this stairway is adequate.

The complainants' testimony as to the inadequacy of 177th Street Station was general, and only to the point that there was congestion at certain times during the rush-hours, but their own witnesses testified that there was no delay in going to and from the trains, their principal witness stating that an active person would have no trouble whatever in going to and from the station.

This station is more central and connects with the crosstown surface line, as well as the Third Avenue surface line, but it has an entrance and exit on both sides of the street to the mezzanine, where there is a wide flight of stairs leading to the station. It also has an exit stairway towards the south end of the platform.

The evidence shows from the count taken by our inspectors that only about one-fourth of the passengers leaving the trains use the exit stairways, and at no time was there any delay to passengers in entering or leaving this station.

As to the complaint requiring a new station to be constructed at 180th Street, I find that this matter had been up for consideration for a long time, and that the railroad company had promised the property owners and residents of that section to build them a station at that point, providing the property owners would give their consents, so that the station could be built and the necessary stairways constructed without the railroad being compelled to pay damages to the abutting property owners. The first consents obtained were given with a limitation clause that the station must be constructed on or before January 1, 1909. Prior to that time the railroad company was not able to construct this station, and went to the property owners again requesting an extension of the consents, with a promise that if the consents were extended to July 1, 1909, they would build the station, and the consents were so extended.

It appears that the distance between the stations south and north of 180th Street is about 3,200 feet, a far greater distance than between any of their other stations, and twice the distance between 177th and 174th Street stations. There is also a crosstown service, cars of the New York City Interborough, passing through 180th Street, and I am of the opinion that a station at this point is necessary to adequately provide for the needs of this

section, and, in view of the fact that the railroad people have themselves had under consideration for the past two or three years the matter of building a station at this point, I would recommend that they be required to proceed at once with the construction of the same so that it may be completed within the life of the consents that they have secured.

Considerable effort was injected into the hearings on the part of the complainants relating to doing away with all of the island stations and the construction of a third track. They were informed that the railroad company's franchise called only for a two-track railroad, and that the Commission had no jurisdiction or power to compel the railroad company to apply for additional franchises, and that the initiative of this question was with the railroad company.

I would, therefore, recommend that the railroad company be required to construct a stairway for outlet at the north end of the 133d Street station, to connect with 134th Street, for exit only, within sixty days; and that a new double station with side platforms be erected at 180th Street by July 1, 1909, and I submit an order accordingly.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission upon the
Question of Improvements to, Changes in and
Additions to the Stations of the INTERBOROUGH
RAPID TRANSIT COMPANY, upon the Third
Avenue Elevated Line, in the Borough of The
Bronx.

Case No. 1007,
Final Order.
January 26, 1909.

This matter coming on upon the report of the hearing had herein on December 1, 1908, December 15, 1908, December 22, 1908, January 5, 1909, and January 19, 1909; and it appearing that said hearing was had by and before the Commission in Case 1007, under and pursuant to Order No. 615 of the Commission; and it appearing that said hearing was instituted after complaints made by the Taxpayers' Alliance of The Bronx, the North Side Board of Trade and T. T. Dempsey, Esq., and after the answer of said Interborough Rapid Transit Company to the complaint of the Taxpayers' Alliance of The Bronx; and it appearing that said Interborough Rapid Transit Company had due and timely notice of said hearing; and it appearing that said hearing was had by and before the Commission on the dates aforesaid, before Mr. Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, attending for the Commission, and Theodore L. Waugh, Esq., attorney, appearing for said Interborough Rapid Transit Company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that improvements and changes in and additions to the stations of said Interborough Rapid Transit Company upon its Third Avenue Elevated Line, in the said City and State of New York, in the particulars following, ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers upon said line; and it having been made to appear after the proceedings on said hearing that the periods of time hereinafter mentioned would be reasonable periods within which such changes, improvements and additions should be directed to be made, now, therefore,

It is ordered: First. That said Interborough Rapid Transit Company be and it hereby is directed and required to construct at the 133d Street Station of said Third Avenue Elevated Line a stairway for exit only, leading from a point at or near the north end of the station platform at said station to 134th Street, so that said stairway will lead directly from said platform to 134th Street and connect the north end of said station platform with 134th Street, so that passengers alighting at this station and desiring to go to 134th Street may, by going down this stairway, go directly to 134th Street.

Second. That said Interborough Rapid Transit Company be and it hereby is directed and required to construct and to proceed at once with the construction of a new double station at the point where said Third Avenue Elevated Line intersects and crosses 180th Street, in the Borough of The Bronx, said station to be constructed with proper station buildings and ticket offices and covered stairways for entrance and exit to and from said station, and such other appurtenances as may be necessary and desirable for the security and convenience of the public, detail plans for such station to be submitted to this Commission for its approval.

Third. That said company comply with the provisions of paragraph No. 1 hereof by or before April 1, 1909.

Fourth. That said company comply with the requirements of paragraph No. 2 hereof by or before July 1, 1909.

Fifth. It is further ordered, That this order shall take effect immediately and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

Sixth. It is further ordered, That said Interborough Rapid Transit Company notify the Public Service Commission for the First District by or before the 1st day of February, 1909, whether the terms of this order are accepted and will be obeyed.

Subsequently the Commission issued orders (see blank form of extension order, page 8) extending the time for the company to make answer to said final order to February 8, 1909, and to March 10, 1909, and thereafter extended the time of the company to complete the improvements required by said final order to May 1, 1909.

Interborough Rapid Transit Company.—Absence of coverings over stairways at stations on the Second, Third, Sixth and Ninth Avenue elevated lines.

Case No. 1034

Hearing Order

Final Order

Extension Orders

This proceeding was begun on motion of the Commission regarding the lack of coverings over stairways at stations on the company's Second, Third, Sixth and Ninth Avenue elevated lines. The Commission, on January 8, 1909, directed (see blank form

of hearing order, page 9) that a hearing be had on January 13th. Hearings were had on that date and subsequently until January 23d. Thereafter the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvements in and Additions to
Certain Stations of the Elevated Lines of the
INTERBOROUGH RAPID TRANSIT COM-
PANY.

Case No. 1034,
Final Order.
January 26, 1909.

"Absence of coverings over stairways at several
stations on the Second, Third, Sixth and Ninth
Avenue Lines."

This matter coming on upon the report of the hearing had herein on January 13, January 21 and January 23, 1909; and it appearing that said hearing was had pursuant to a hearing order in Case No. 1034, dated January 8, 1909, and returnable on January 13, 1909; and it appearing that said hearing order was issued on motion of the Commission after complaint made by William Bernard, and after the answer of the Interborough Rapid Transit Company thereto; and it appearing that said order was duly served upon said Interborough Rapid Transit Company; and it appearing that said hearing was had by and before the Commission on the aforesaid dates before Mr. Commissioner Eustis, presiding, Harry M. Chamberlain, Esq., Assistant Counsel, appearing for the Commission, and Theodore L. Waugh, Esq., Attorney, appearing for said Interborough Rapid Transit Company; and testimony having been taken upon said hearing, and it having been made to appear after the proceedings on said hearing that improvements and changes in and additions to the stairways leading to and from the Park Place Station of said Interborough Rapid Transit Company on the Sixth Avenue Elevated Line of said company at Park Place in the Borough of Manhattan, City and State of New York, and on the west side of said station at Park Place in the particulars following, ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers; and it having been made to appear after the proceedings on said hearing that the time hereinafter mentioned would be a reasonable time within which such improvements, changes and additions should be directed to be made,

Now, therefore, it is

Ordered. 1. That said Interborough Rapid Transit Company be and said company hereby is directed and required to erect and maintain over the stairways leading to and from the Park Place Station of its Sixth Avenue Elevated Line at Park Place in the Borough of Manhattan, City and State of New York, and on the west side of said station, coverings or canopies similar in design to those now existing over the stairways on the east side of said station.

2. That said company construct said coverings or canopies by or before April 1, 1909, and thereafter maintain the same over said stairways.

3. That this order shall take effect immediately and shall continue in force until such time as the Public Service Commission for the First District shall otherwise order.

4. That said Interborough Rapid Transit Company notify the Public Service Commission for the First District on or before February 1, 1909, whether the terms of this order are accepted and will be obeyed.

Thereafter, upon applications in writing by the company, the Commission, on February 5th, extended (see blank form of extension order, page 8) the time of the company to make answer to the final order to February 8th, and on March 26th extended the time of the final order to take effect to April 30, 1909.

Long Island Railroad Company.—Relocation of station, platforms, tracks and gates at East New York.

Case No. 1000

Opinion of the Commission
Final Order

This proceeding was begun in 1908 upon motion of the Commission against the company, regarding the plan of the company for the relocation of a part of Atlantic Avenue in Brooklyn and the relocation of the station at East New York. Hearings were held during 1908 and on January 12, 1909.

OPINION OF THE COMMISSION.

(Adopted February 26, 1909.)

COMMISSIONER MCCARBOLL:—

This matter came up on the complaint of Mr. Alexander Drescher, representing the Brownsville Board of Trade, relative to the dangerous operation of the Long Island trains over the important crossings of that line at East New York Avenue and Van Sinderen Avenue, also to inadequate station facilities.

The Railroad Company admits the dangerous character of the operations there, which have been the cause of many accidents. The crossing is in its very nature a very hazardous one, due to the large number of trains operated in either direction and also to the width of the streets they cross. There is an average of considerably more than two hundred trains daily passing at this point, or about ten per hour. The crossing is protected by heavy gates and by flagmen. There is also a slight curve in the line at this point.

Hearings were given on December 3 and 28, 1908, and January 12, 1909, and the conditions, as stated, were disclosed by the testimony.

The Railroad Company proposed to obviate the difficulty by a re-location of tracks and stations, so that the crossings would be made between the stopping points of both the east and west-bound trains at the respective stations, and also for the purpose of giving improved platform and station facilities. It is also proposed to deflect the track about eight feet from the northerly to southerly side of present location.

The Long Island Railroad Company owns a southerly frontage of Atlantic Avenue and proposes to deed to the city an amount of land on that side equal to the amount required for the tracks and facilities by the removal to the other side.

The plan involves the closing of the direct line of East New York Avenue and making the crossing to the eastward of that avenue, through Van Sinderen Avenue, and thence by a slight detour again into New York Avenue on the southerly side. There is, of course, some objection to the closing of an avenue of the importance of East New York Avenue, but as against that there is the question of safety to the public and the operation of the railroad with the greatest facility and without the imminent danger of accident which now exists. Furthermore, this arrangement is proposed as a temporary expedient, pending the elimination of the grade crossing entirely by the depressing of the tracks as a part of the comprehensive improvement now progressing on the line. The Railroad Company states by its President and Mr. Addison that it is expected this will be reached, certainly within two years, and that then the grade crossing will be removed, as stated, and new stations with ample facilities erected.

The city was represented at the hearings by Mr. Clark and Chief Engineer Lewis. The latter made a report to the Board of Estimate and Apportionment, copy of which is attached. This report favors the approval of this measure, subject to the conditions mentioned and as a temporary expedient.

I have, therefore, as committee, to report in favor of this being carried out, pursuant to the plans submitted by the Railroad Company in the hearing, subject to the approval and consent of the Board of Estimate and Apportionment as to the transfer to the city of the property involved to an extent also satisfactory to that Board and conditioned, also, on its being a temporary arrangement, pending the elimination of the grade crossing by the permanent construction, as set forth.

An order is submitted herewith, with the recommendation of your Committee that it be adopted as the Final Order of the Commission.

In the Matter
of the
Hearing on Motion of the Commission as to the
Regulations, Practices, Equipment and Service
of the LONG ISLAND RAILROAD COMPANY.

Case No. 1000.
Final Order.
February 26, 1909.

A hearing having been duly held in the above entitled matter, before Mr. Commissioner McCarroll on December 3, 1908, December 17, 1908, December 28, 1908, and January 12, 1909, and the Long Island Railroad Company having duly appeared at said hearing by its attorney, Joseph F. Keaney, Esq., and the City of New York having appeared by William J. Clark, Esq., Assistant Corporation Counsel, now it is hereby

Ordered, That by or before the 1st day of June, 1909, the said Long Island Railroad Company relocate its station, platforms, tracks and gates and reconstruct the same in accordance with the plans which were offered in evidence as Exhibits Nos. 1, 2 and 3 of December 17, 1908. And it is further

Ordered, That the westbound platform and waiting-room shall be a temporary station, and that by the 1st day of June, 1911, or upon the earlier completion of the changes in the grade at which the tracks of said company in Atlantic Avenue, and the tracks of the Manhattan Beach Division of said company, cross said westbound platform and waiting-room shall be removed

west of Van Sinderen Avenue; and that at the same time said company shall restore the gate for crossing at East New York Avenue and Williams Place. And it is further

Ordered, That the requirements of this order are conditioned upon said company's obtaining the consent and approval of the Board of Estimate and Apportionment of the City of New York to the proposed changes. And it is further

Ordered, That this order shall take effect immediately, and remain in force until modified by the further order or orders of this Commission. And it is further

Ordered, That within five days after service upon it of a copy of this order, said company notify the Public Service Commission for the First District whether this order is accepted and will be obeyed.

Long Island Railroad Company.— Conditions of station plaza at Far Rockaway.

Case No. 1062

Complaint Order

Hearing Order

Opinion of the Commission

Final Order

This proceeding was begun upon the complaint of The Progress Society of the Rockaways against the company regarding the condition of the station plaza at Far Rockaway. The Commission, on February 9, 1909, issued a complaint order (see blank form of complaint order, page 7) and on February 23d issued an order directing (see blank form of hearing order, page 8) that a hearing be had on March 8th. Hearings were had on March 8th and 15th.

OPINION OF THE COMMISSION.

(Adopted May 4, 1909.)

COMMISSIONER BASSETT:—

The complaint in this matter alleges that the quadrangular plaza on the south side of the station at Far Rockaway is kept in a muddy condition, particularly after inclement weather, so that pedestrians who are in the habit of crossing the plaza in approaching the station to take trains are obliged to wade through mud and water. It appears that this plaza was designed by the company for the use of vehicles. There is a walk around this plaza for the use of pedestrians, but the complainants and others who approach the station from the south and southeast are in the habit of crossing the plaza because the distance is not so great. The plaza is the property of the railroad company.

The complainants insist that the company should construct a walk across the plaza and thus enable pedestrians to cross the plaza dry-shod. This the company is unwilling to do, stating that the plaza is maintained by the

company for the use of vehicles only, and that the company does not desire by building a walk across the plaza to extend an invitation to the public to cross the same, fearing that the company might thus become liable in damages for any injury that might befall pedestrians crossing the same.

The Public Service Commissions Law contemplates that a railroad station and its surrounding lands will be kept in a reasonable, safe and convenient condition. The real question is whether the railroad company under all the circumstances is allowing a reasonable approach to its station. If the present intended approach for foot passengers is a reasonable approach, then it would be stretching the powers of the Commission to require the company to put in a new sidewalk and to fix the location of the same because it would be more convenient for passengers to approach the station in that way, especially where, as in this case, such action might result in putting a burden upon the company in the way of damages for injuries received in crossing the plaza, which the company does not wish to assume and which would be unfair to the company. If the entire plaza is homogeneous then foot passengers can cross the same, if they desire to do so, at their own risk.

The company should be compelled to keep the plaza in a reasonable, dry, safe and convenient condition for carriages and other vehicles, and in so far as that condition for carriages and other vehicles renders it better and safer for pedestrians the cause of the complaint herein will have been removed. But the Commission should not in this case direct the company to construct a walk across the plaza for the use of pedestrians and instruct the company as to the location thereof. This is not a case where foot passengers have no other approach to the station.

The evidence shows that the surface of this plaza is not now in a proper condition and is not properly drained. The Commission should require the Company to reconstruct the surface of the plaza so that it will present a compact surface for the use of vehicles, and grade it so that water will be well drained from its surface.

Thereupon the Commission issued the following order:

THE PROGRESS SOCIETY OF THE ROCK-
AWAYS, by Messrs. Wilcox & Brodek, Attorneys,
Complainant,

against

LONG ISLAND RAILROAD COMPANY,
Defendant.

Case No. 1062.
Final Order.
May 4, 1909.

"Condition of Station Plaza at Far Rockaway."

A hearing having been had in the above entitled matter on March 8 and March 15, 1909, before Commissioner Bassett, presiding, Charles A. Brodek, Esq., appearing for the complainant, and C. L. Addison, Esq., appearing for the Long Island Railroad Company; and it having been made to appear after the proceedings on said hearing that repairs, improvements, changes and additions in and to the station plaza of said company at said company's passenger station at Far Rockaway in the Borough of Brooklyn, City of New York, in the particulars following ought reasonably to be made in order

to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers,

Now, therefore,

It is ordered, (1) That said Long Island Railroad Company be and it hereby is directed and required to reconstruct the surface of said plaza so that it shall present a compact surface for the use of vehicles and grade it so that water will be well drained from its surface.

(2) That said work be completed by said company prior to the 15th day of June, 1909, and that the surface of said plaza be thereafter kept and maintained by said company in the condition aforesaid.

(3) That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

(4) That said Long Island Railroad Company notify the Public Service Commission of the First District within five (5) days after service of this order upon it whether the terms of this order are accepted and will be obeyed.

Long Island Railroad Company.—Lack of facilities for handling baggage at Broad Channel station.

Case No. 1092

Hearing Order
Final Order

This proceeding was begun upon the complaint of H. L. C. Wenk alleging lack of facilities for handling baggage at the company's Broad Channel station. The Commission, on March 30, 1909, directed (see blank form of hearing order, page 8) that a hearing be had on April 12th. A hearing was had on said date. Thereafter the Commission issued the following order:

H. L. C. WENK,	Complainant,	
<i>against</i>		
LONG ISLAND RAILROAD COMPANY,	Defendant.	Case No. 1092, Final Order. April 21, 1909.
"Lack of facilities for handling baggage at Broad Channel Station."		

After hearing upon the complaint of H. L. C. Wenk, dated June 19, 1908, and answer of Long Island Railroad Company, dated July 2, 1908, duly held before Mr. Commissioner McCarroll on April 12, 1909, the complainant appearing in person. Arthur Du Bois, Esq., appearing for the Public Service Commission for the First District, and C. L. Addison, Esq., appearing for the Long Island Railroad Company, the Commission being of opinion that the regulations and service of Long Island Railroad Company upon its Rockaway Beach Branch have been and are inadequate in that there are no facilities provided at the Broad Channel Station for handling baggage during the summer months,

Now, therefore,

It is ordered, That the Long Island Railroad Company be and it hereby is directed to maintain at its Broad Channel Station on the Rockaway Beach

Branch, from the 15th of June to and including Labor Day, in each and every year, at least one employee, charged with the duty of handling and receiving and checking baggage and express matter both on the eastbound and on the westbound platforms.

Further ordered, That the Long Island Railroad Company erect at the Broad Channel Station a proper and sufficient shelter in which baggage or express matter may be stored and protected during inclement weather, until called for, and that the proper facilities be maintained from the 15th of June to and including Labor Day of each and every year for receiving and checking baggage and express matter on both platforms.

Further ordered, That this order shall take effect on the 30th day of April, 1909, and shall continue in force until otherwise ordered by this Commission.

Further ordered, That the Long Island Railroad Company notify the Public Service Commission for the First District not later than April 30, 1909, whether the terms of this order are accepted and will be obeyed.

Long Island Railroad Company.—Removal of turnstiles at the Nostrand Avenue station.

Case No. 1058

Hearing Order

Final Order

This proceeding was begun on motion of the Commission to inquire whether the turnstiles at Nostrand Avenue station should be removed. The Commission, on February 5, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on February 17th. Hearings were had on February 17th and 24th. Thereafter the Commission issued the following order:

<p>In the Matter of the Hearing on Motion of the Commission as to the Regulations, Practices, Equipment, Appliances and Service of the LONG ISLAND RAILROAD COMPANY, for Removal of Turnstiles at Nos- trand Avenue Station.</p>
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Case No. 1058,
Final Order.
March 5, 1909.

The Commission, being of the opinion after hearing held on February 17 and February 24, 1909, before Mr. Commissioner McCarroll, that the regulations and equipment of the Long Island Railroad Company have been and are inadequate in that insufficient entrances and exits have been provided at the Nostrand Avenue Station, now, therefore,

It is ordered. (1) That westbound passengers be allowed to enter the westbound platform of the Nostrand Avenue Station from the New York Avenue end between the hours of 6:00 A. M. and 10:00 A. M. daily, and that facilities be furnished to allow passengers to purchase tickets at this point.

(2) That eastbound passengers arriving at the eastbound platform of the Nostrand Avenue Station between the hours of 3:00 P. M. and 7:00 P. M. daily, be allowed to use as an exit the steps now situated at the New York Avenue end of the eastbound platform of the Nostrand Avenue Station.

Further ordered, That this order shall take effect as soon as the changes in construction necessary to provide the facilities ordered can be made, and

not later than the 20th day of March, 1909, and remain in force until otherwise ordered by this Commission.

Further ordered, That the Long Island Railroad Company notify the Public Service Commission for the First District not later than March 10, 1909, whether the terms of this order are accepted and will be obeyed.

Long Island Railroad Company.—Improvements and additions to stations.

Case No. 1191

This proceeding was begun on motion of the Commission to determine whether changes and additions should be directed on the stations of the Long Island Railroad Company. The Commission, on December 17, 1909, issued an order directing (see blank form of hearing order, page 9) that a hearing be had on December 29, 1909. A hearing was had on that date and adjournment taken to January 12, 1910.

Nassau Electric Railroad Company.—Lack of shelter at 62d Street and New Utrecht Avenue.

Case No. 1037

Complaint Order

Order Authorizing Chief Engineer
to Attend Conference

Discontinuance Order

This proceeding was begun on the complaint of George W. Hallock and others regarding lack of shelter at 62d Street and New Utrecht Avenue. The Commission, on January 12, 1909, issued a complaint order (see blank form of complaint order, page 7).

At a meeting of the Commission on March 23, 1909, the Secretary presented a communication, dated March 23, 1909, transmitting a copy of a letter from the Chief Engineer of the Board of Estimate and Apportionment, suggesting that in the matter of acquiring title to portions of New Utrecht, Sixth, Seventh, Eighth and Tenth Avenues, and 36th and 38th Streets, Brooklyn, it would be desirable to have the general question first considered by a committee consisting of the Chief Engineers of the Board of Estimate and Apportionment, the Public Service Commission and

the Brooklyn Rapid Transit Company, and the Consulting Engineer of the Borough of Brooklyn. On motion, duly seconded, a resolution was thereupon adopted, authorizing the Chief Engineer of the Commission to attend such conference.

GEORGE W. HALLOCK et al., Complainants, <i>against</i> NASSAU ELECTRIC RAILROAD COMPANY, Defendant.	Case No. 1037, Discontinuance Order. November 30, 1909.
"Lack of shelter at 62d Street and New Utrecht Avenue."	

The matters complained of in the complaint herein having been satisfied. *It is ordered*, That the above entitled proceeding be and the same hereby is discontinued.

New York, New Haven and Hartford Railroad Company.—
 Inadequate service and station facilities at Harlem River Terminal.

Case No. 1098
 Hearing Order
 Final Order

This proceeding was begun on motion of the Commission against the company regarding inadequate service and station facilities at its Harlem River Terminal. The Commission, on April 12, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on April 16th. Hearings were held on April 16th and 19th. Thereafter the Commission issued the following order:

In the Matter . of the Hearing on Motion of the Commission as to the Regulations, Practices, Equipment, Service and Station Facilities of the NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COM- PANY.	Case No. 1098. Final Order. April 23, 1909.
"Inadequate service and station facilities at Harlem River Terminal."	

A hearing having been had in the above entitled matter on the 16th day of April, 1909, and on the 19th day of April, 1909, Commissioner Eustis, presiding, H. M. Chamberlain, Esq., Assistant Counsel, attending for the Commission, and W. T. Quinn, Esq., attorney, appearing for said railroad company; and it having been made to appear in the judgment of the Commission, after the proceedings on said hearing, that repairs, improvements, changes and

additions in and to the station and station facilities of said company, upon and near its line known as the Harlem River and Port Chester Line, at the Harlem River Terminal Station, on the said line, in the Borough of The Bronx, City of New York, in the particulars following, ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate service and facilities for the transportation of passengers, now, therefore,

It is ordered, (1) That said New York, New Haven and Hartford Railroad Company be and it hereby is directed and required to construct and maintain at or near the easterly end of the covered board platform, at the station above mentioned, a waiting-room and ticket office, suitably enclosed with proper walls, ceilings, floors, windows, and doors, properly lighted and heated and provided with seats and such other conveniences as shall render said waiting-room and ticket office suitable and adequate for the convenience and protection of passengers; the point at which said waiting-room and ticket office is to be constructed to be approximately the same as that at which the ticket booths are at present located on said platform.

(2) That said waiting-room and ticket office be constructed within sixty (60) days after service on said company of a certified copy of this order and shall be thereafter kept and maintained by the said company in a convenient, clean and sanitary condition, properly heated and lighted and so arranged and managed as to properly and adequately protect the health and assure the safety of passengers using the same.

(3) That this order shall take effect immediately and shall continue in force until abrogated or modified by further order of the Commission.

(4) That said New York, New Haven and Hartford Railroad Company notify the Public Service Commission for the First District on or before the 30th day of April, 1909, whether the terms of this order are accepted and will be obeyed.

South Brooklyn Railway Company.— Cinder platforms at Kensington Station and on Gravesend Avenue.

Case No. 249

Hearing Order

Opinion of the Commission

Order abrogating Final Order

This proceeding was begun in 1908 upon the complaint of Frank Bennett in respect to cinder platforms at Kensington station and also at various places on Gravesend Avenue. The Commission, in 1908, issued an order directing the company to erect certain cinder platforms. On April 9, 1909, the Commission issued an order for hearing as to compliance with the final order (see blank form of hearing order, page 8). Hearings were held on April 19th and subsequently until May 17th.

OPINION OF THE COMMISSION.

(Adopted June 15, 1909.)

COMMISSIONER BASSETT:—

The platforms on Gravesend Avenue have been a constant source of complaint. The Culver line, so-called, extends to Coney Island through Gravesend Avenue. It is a rapid transit line but placed upon the surface of this

increasingly important street. On February 7, 1908, the Commission made a final order directing the South Brooklyn Railway Company to construct and maintain at its Kensington Station on each side of its double track a cinder platform at least 200 feet in length and of sufficient height and width to enable passengers to board and alight from trains at said station with convenience and safety; that the exterior of each platform next to the street for at least 120 feet should be enclosed with heavy retaining timbers laid in such a manner as to form steps from the then grade of the street to the tops of said platforms; and that the company should keep and maintain the tops of the cinder platforms on a level with the said timbers. Substantially the same requirements were imposed regarding the 18th Avenue station and the Parkville Station but the platforms at neither of these stations required the same amount of timbering because at that time the tracks at the last named stations were more nearly at the street grade. The company complied with the order.

Since that time the company has obtained permission from the city authorities to set a low curb between the trackage area and the roadway on either side of the tracks. The street has also been graded but not paved and the discrepancies between the track level and street surface have been remedied. At each of the stations in question the platforms have been rearranged so that their outside edge conforms with the outside of the partition curb. The city has refused to grant a permit for these platforms to extend in the roadway. As the roadway between the partition curb and the official curb line is only 17 feet 6 inches, which barely allows vehicles to pass each other in safety, it would appear that the city authorities are acting wisely in refusing to let the platforms project into the roadways beyond the partition curb. This being the case only 1 foot 7 inches is allowed for the width of certain of the platforms.

It was brought to the attention of the Commission that the order of February 7, 1908, was not being complied with in that narrow platforms are now used. Thereupon the present inquiry was ordered: (1) On the question of the compliance by the South Brooklyn Railway Company with the terms of Final Order No. 249, dated February 7, 1908. (2) On the question whether said Final Order No. 249 or any part thereof should be abrogated, changed or modified. (3) If it be determined that said order or any part thereof should be changed or modified, then to determine the nature and extent of any change or modification and the time within which the same should be made. Hearings have been held which have been largely attended by interested citizens. There is no doubt that the present narrow platforms are unsatisfactory. Women standing on them while a train is approaching are apt to have their skirts caught by the contact shoes of the motor cars. No actual accident, however, has been reported, because as a matter of fact no one would think of standing on these narrow platforms while a train was passing. The platform is little more than a step to assist in boarding the cars. When the roadway is paved so that it presents a hard surface the situation will be much improved, for the main cause of the present general complaint is that when one steps back from the platform to avoid a train he is likely to sink several inches in the mud of the roadway. A suggestion that timbers should be placed on the edge of the roadway next to the platforms was carefully considered, but I am convinced that this would be little

help to the passengers and would be an actual impediment to vehicular traffic. The city authorities should be applied to, to provide better roadways and cross-walks in the vicinity of these stations as the care of the roadways is beyond the jurisdiction of the Commission.

The deplorable situation in Gravesend Avenue exemplifies the unwisdom of operating rapid transit railroads on street surfaces. Adjustment can follow adjustment and minor changes made to alleviate the danger, but the absolutely necessary thing to make the operation safe is to depress, elevate or abolish the railroad. The time cannot come too soon when this and other rapid transit lines in South Brooklyn shall be removed from the surface of the streets. The constant growth of the city has created city streets where formerly surface steam railroads ran in comparative safety.

The changes brought about by grading Gravesend Avenue and placing the partition curbs in the street have rendered obsolete the requirements of Order No. 249 dated February 7, 1908. The company appears to have conformed with that order so far as it has been permitted to do so by the city authorities. The care of the roadways rests with the city and in this respect is not subject to the orders of the Commission. I recommend, therefore, that Final Order No. 249 be abrogated.

Thereupon the Commission issued the following order:

<p style="text-align: center;">In the Matter</p> <p style="text-align: center;">of the</p> <p>Hearing on Motion of the Commission on the Question of the Compliance by the SOUTH BROOKLYN RAILWAY COMPANY with the Terms of Final Order No. 249, Dated February 7, 1908, and on the Question whether Said Final Order No. 249, or Any Part Thereof, Should be Abrogated, Changed or Modified.</p>	<p>Case No. 249, Order Abrogating Final Order. June 15, 1909.</p>
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A final order, No. 249, having been made herein on the 7th day of February, 1908, directing South Brooklyn Railway Company to maintain platforms in connection with the stations along its line in Gravesend Avenue, in accordance with certain requirements specified, and a hearing having been held by the Commission on due notice to all parties on the question of the South Brooklyn Railway Company's compliance with the terms of said Final Order No. 249 and on the further question whether said Final Order No. 249 should be abrogated, changed or modified; and it appearing to the satisfaction of the Commission that changes have been made by the city authorities in the surface of Gravesend Avenue since the Commission's Final Order No. 249 took effect; and it appearing to the satisfaction of the Commission that these changes make it impossible for said South Brooklyn Railway Company further to comply with the requirements of said Final Order No. 249, now, therefore,

It is ordered, That said Final Order No. 249 be and the same hereby is in all respects abrogated, without prejudice to an order or orders for further hearings and action thereon by the Commission in respect to any of the matters covered by the said Final Order No. 249, dated February 7, 1908, or by the proceedings thereon.

Further ordered, That this order be filed in the office of the Commission and that a copy thereof be served on the South Brooklyn Railway Company.

Staten Island Railway Company.—Lack of shelter at Great Kills station.

Case No. 1061

Complaint Order
Dismissal Order

This proceeding was begun upon the complaint of Karl Bawar, alleging that there was a lack of shelter at the company's Great Kills station. The Commission, on February 9, 1909, issued a complaint order (see blank form of complaint order, page 7). Thereafter the Commission issued the following order:

<p>KARL BAWAR, <i>against</i> STATEN ISLAND RAILWAY COMPANY, — "Lack of shelter at the Great Kills Station."</p>	<p>Complainant, Defendant.</p>	<p>{</p>	<p>Case No. 1061, Dismissal Order. May 7, 1909.</p>
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An order known as Hearing Order No. 1061 having been duly made by the Commission on February 9, 1909, directing that a hearing be had on the matters contained in the complaint, and said order having been duly served on the Staten Island Railway Company, and it appearing that the conditions complained of had been improved, and the complainant having consented to the dismissal of the complaint;

Now, therefore, it is

Ordered, That the complaint in this proceeding be and the same hereby is in all respects dismissed and that this order be filed in the office of the Commission;

And it is further ordered, That this order shall be without prejudice to an order for further hearing and action thereon by the Commission in respect to any of the matters covered by said complaint, or by the proceedings thereon;

And it is further ordered, That a copy of this order be served on the complainant, Karl Bawar, and on the defendant, Staten Island Railway Company.

OPINION OF THE COMMISSION.

(Adopted September 14, 1909.)

COMMISSIONER MCCARROLL:—

Following several reports from Mr. Turner relative to the need of shelters at the above named stations of the Staten Island Railway Company, I took up negotiations with Mr. Campbell by conference and correspondence, and also through Mr. Turner.

While not conceding for the company the necessity for these shelters, Mr. Campbell agreed, on the representations made to him, to erect them of a character to answer the requirements as stated by Mr. Turner of the Inspection Bureau.

The work at both of these stations has been completed and reports have been made by our Inspection Bureau under dates of August 25th and September 9th; copies of same attached.

Matters Relating to Electrical Corporations.

Electrical Corporations.— Specifications for electric current energy meters.

Case No. 1099

Hearing Order

Amendatory Order

Final Order

CASE NO. 1909, ORDER FOR HEARING.

(April 21, 1909.)

Ordered: That a hearing be held by the Public Service Commission for the First District on April 29, 1909, at 2:30 P. M., at the rooms of the Commission, 154 Nassau Street, New York City, for the purpose of determining whether, in order to promote uniform and accurate measurement of electric current supplied to customers by electrical corporations within the First District, an order should be issued by the Commission, containing substantially the provisions set out in the draft hereto annexed.

Ordered, further: That a copy of this order, with the draft annexed, be served on all the electrical corporations within this district at least four days before the date fixed for hearing.

HEARING ORDER ON SPECIFICATIONS PROPOSED TO BE PRESCRIBED FOR ELECTRIC CURRENT ENERGY METERS.

Section 1. The following specifications are hereby adopted for all direct current energy meters:

1. *Mechanical Construction.* Material and Workmanship to be first-class in every particular, all fixed parts to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

2. *Accuracy of Adjustment.* Meter to be capable of adjustment to register with an error of less than one per cent. (1%) the true value of energy supplied through the meter at rated voltage and at either rated current or 10% of rated current.

3. *Accuracy of Registration under Various Conditions of Load and Voltage.* After the meter has been adjusted as specified under clause 2. it shall register with an error of less than two per cent (2%) the true value of the energy supplied through it at rated voltage at any current from 10% of rated current to 150% of rated current; the error in registration at 5% of rated current and at rated voltage shall not be greater than seven and one-half per cent (7.5%); the change in the accuracy of registration for a 10% change in voltage either above or below normal shall not exceed three per cent. (3%) at rated current or five per cent (5%) at 10% of rated current.

4. *Accuracy of Three-Wire Meters.* The change in the accuracy of a registration of a three-wire meter when either one of the current coils is cut out of circuit shall not exceed three per cent (3%) for rated current through the remaining coil.

5. *Effect of Change in Temperature.* The change in registration of the meter when the temperature of the room in which it is installed rises from 50° to 100° Fahrenheit shall not be more than five per cent (5%) at rated voltage at either rated current or 10% of rated current.

6. *Effect of Temporary Overloads.* A temporary overload (three seconds) of 300% of rated current applied five consecutive times shall not cause a permanent change of registration at rated voltage and rated current of more than two and one-half per cent (2.5%) for meters having a rated current capacity of less than 600 amperes, or of more than five per cent (5%) for meters of larger capacity; the permanent change in registration at ten per cent. of rated current and rated voltage, due to such overloading, shall in no case exceed five per cent.

7. *Loss in Current Coils.* For meters rated at 50 amperes or less the total loss in the current coils at rated load shall not be more than one per cent (1%) of the total power supplied; for larger meters this loss shall not exceed two tenths of one per cent (0.2%).

Section 2. The following specifications are hereby adopted for all alternating current energy meters:

1. *General.* In the case of a three-wire single phase meter, the limits of error specified, unless otherwise stated, refer to tests made with the two current coils connected in series and rated voltage applied to the potential circuit. In the case of a polyphase meter the limits of error specified, unless otherwise stated, refer to tests made with single phase current, with both current coils of the meter in series and the two potential circuits in parallel and connected to a single phase source of pressure.

2. *Mechanical Construction.* Material and workmanship to be first-class in every particular, all fixed parts to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

3. *Accuracy of Adjustment.* Single phase meters to be capable of adjustment to register with an error of less than one per cent (1%) the true value of energy supplied through the meter at rated voltage and frequency and 100% power-factor, at either rated current or 10% of rated current.

Each element of a three-phase meter to be capable of independent adjustment so that the meter will register on a single-phase circuit with an error of less than one per cent (1%) the true value of the energy supplied at normal frequency and 100% power-factor through either element alone, for either rated current or 10% of rated current through that element, with normal single-phase voltage applied to both elements.

4. *Accuracy of Registration under Various Conditions of Load and Voltage.* After the meter has been adjusted as specified under clause 3, it shall register with an error of less than two per cent (2%) the true value of the energy supplied through it at rated voltage, frequency and 100% power-factor at any current from 10% of rated current to 100% of rated current; the error in registration under the same conditions at 5% rated current and 150% rated current shall not be greater than two and one-half per cent (2.5%); the change in the accuracy of registration at rated frequency and 100% power-factor for a 10% change in voltage either above or below normal, shall not exceed one per cent (1%) at either rated current or at 10% of rated current.

5. *Effect of Change in Frequency and Power-Factor.* A change in the power-factor of the load supplied through the meter at normal voltage and frequency from 100% to 50% lagging shall not cause an increase in the speed of the meter at rated watts of more than two per cent (2%), or a decrease of more than four per cent (4%), and shall not cause an increase or decrease of speed at 10% of rated watts of more than four per cent (4%).

A change of 10% in the frequency of the current supplied through the meter at normal voltage and 100% power-factor shall not cause a change in the accuracy of registration at either rated current or 10% of rated current of more than 2 per cent (2%).

A change of 10% in the frequency of the current together with a change in the power-factor from 100% to 75% lagging, the voltage being held at

its rated value, shall not change the speed of the meter at either rated watts or 10% of rated watts more than four per cent (4%).

6. *Accuracy of Three-Wire Single Phase Meters.* The change in the accuracy of a three-wire single phase meter at rated voltage, frequency and 100% power-factor, when either one of the current coils is cut out of circuit shall not exceed two per cent (2%) for rated current through the remaining coil.

7. *Accuracy of Polyphase Meters.* A polyphase meter when adjusted on single phase current as described above under clause 3, shall also register on a polyphase circuit at rated voltage and frequency within one per cent (1%) of the same accuracy shown on the single phase test, both at 10% rated current and at rated current at both 100% power-factor and 50% power-factor.

8. *Effect of Change-in Temperature.* The change in registration of the meter when the temperature of the room in which it is installed rises from 50° to 100° Fahrenheit shall not be more than four per cent (4%) at rated voltage at either rated current or 10% of rated current.

9. *Effect of Temporary Overloads.* A temporary overload (three seconds) of 300% of rated current applied five consecutive times, shall not cause a permanent change of registration at rated voltage at either rated current or 10% of rated current of more than one per cent (1%).

10. *Loss in Current Coils.* The total loss in the current coils of the meter at rated current shall not exceed five-tenths of one per cent (0.5%) of the rated watts of the meter.

Section 3. From and after May 15, 1909, no electric current energy meters shall be set or put in use except those of such types as shall first have been certified by the Public Service Commission as conforming to the specifications in section 1 or section 2 hereof.

(See report in Case No. 1100 which follows.)

A hearing was held April 29, 1909.

Thereafter the Commission issued the following order:

In the Matter
of
Specifications for ELECTRIC CURRENT ENERGY
METERS.

Case No. 1099
Final Order
June 25, 1909

A hearing in the above entitled matter having been held April 29, 1909, by the Public Service Commission for the First District, Honorable Milo R. Maltbie, Commissioner, presiding, it is hereby

Ordered:

Section 1. The following specifications are hereby adopted and prescribed for all Electric Current Energy Meters to be set or put in use by all electrical corporations within the First District.

I. DIRECT CURRENT METERS.

1. *Mechanical Construction.* Material and workmanship are to be first class in every particular. All fixed parts are to be securely held in their proper position, moving element to be as light as possible consistent with proper strength, and all bearing surfaces to be designed to reduce friction to the minimum.

2. *Accuracy of Adjustment.* Meter is to be capable of adjustment to register the true amount of energy supplied through it at rated voltage with an error not to exceed one per cent (1%) at either 100 per cent of rated current or 10 per cent of rated current.

3. *Accuracy of Registration under Various Conditions of Load.* After the meter has been adjusted as specified in clause 2, it shall register the true amount of energy supplied through it at rated voltage within the following limits:

Rated Current.		Error
From 10 per cent to 150 per cent.....		not to Exceed 2.0 per cent.
At 5 " "		7.5 " "

4. *Effect of Change in Voltage.* After the meter has been tested according to clause 3, it shall not, when tested at 90 per cent and at 110 per cent of rated voltage, show a variation from the tests made according to clause 3 of more than three per cent (3%) at 100 per cent of rated current and five per cent (5%) at 10 per cent of rated current.

EXAMPLE:— If a meter at rated voltage registers 100.5 per cent at 100 per cent of rated current, then at 110 per cent of rated voltage and at 90 per cent of rated voltage, it shall register not more than 103.5 per cent nor less than 97.5 per cent.

5. *Accuracy of Three-Wire Meters.* The change in the accuracy of registration of a three-wire meter, when either one of the current coils is cut out of circuit, shall not exceed three per cent (3%) with 100 per cent of rated current through the remaining coil.

EXAMPLE:— If the meter with both coils in circuit registers 100.5 per cent at rated voltage and 100 per cent of rated current, then with either one of the current coils cut out of circuit, it shall register not more than 103.5 per cent nor less than 97.5 per cent.

6. *Effect of Change in Temperature.* The change in the accuracy of registration of the meter, when the temperature of the room in which it is being tested rises from 50 degrees to 100 degrees Fahrenheit, shall not, at rated voltage, exceed five per cent (5%) at either 100 per cent of rated current or 10 per cent of rated current.

7. *Effect of Temporary Overloads.* A temporary load (three seconds' duration) of 300 per cent of rated current at rated voltage applied five consecutive times shall not cause a permanent change of registration of more than two and one-half per cent (2.5%) at 100 per cent of rated current for meters having a rated current capacity of less than 600 amperes, or of more than five per cent (5%) for meters of larger capacity. At 10 per cent of rated current and at rated voltage, the permanent change of registration due to such overloading shall in no case exceed five per cent (5%).

8. *Loss in Current Coils.* For meters rated at 50 amperes or less, the total loss in the current coils at rated load shall not be more than one per cent (1%) of the total power supplied; for larger meters this loss shall not exceed two-tenths of one per cent (0.2%).

II. ALTERNATING CURRENT METERS.

(A) SINGLE PHASE.

1. *General.* In the case of a three-wire meter, the limits of error specified, unless otherwise stated, refer to tests made with the two current coils connected in series and rated voltage applied to the potential circuit.

2. *Mechanical Construction.* Material and workmanship are to be first class in every particular. All fixed parts are to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

3. *Accuracy of Adjustment.* Meter is to be capable of adjustment to register the true amount of energy supplied through it at rated voltage, rated frequency and 100 per cent power factor with an error not to exceed one per cent (1%) at either 100 per cent of rated current or 10 per cent of rated current.

4. *Accuracy of Registration under Various Conditions of Load.* After the meter has been adjusted as specified in clause 3, it shall register the true amount of energy supplied through it at rated voltage, rated frequency and 100 per cent power factor within the following limits:

Rated Current.		Error
From 10 per cent	to 100 per cent.....	not to Exceed 2.0 per cent
At 5 "	"	3.0 " "
At 150 "	"	3.0 " "

5. *Effect of Change in Voltage.* After the meter has been tested according to clause 4, it shall not, when tested at 90 per cent and 110 per cent of rated voltage, at rated frequency and 100 per cent power factor, show a variation from the tests made according to clause 4 of more than one and one-half per cent (1½%) at either 100 per cent of rated current or 10 per cent of rated current.

EXAMPLE:— If a meter at rated voltage registers 100.5 per cent at 100 per cent of rated current, then at 110 per cent of rated voltage and at 90 per cent of rated voltage, it shall register not more than 102 per cent nor less than 99 per cent.

6. *Effect of Change in Power Factor.* A change in the power factor of the load supplied through the meter from 100 per cent to 75 per cent lagging shall not cause, at rated voltage and rated frequency, a change in the accuracy of registration of more than two and one-half per cent (2½%) at 133 per cent of rated current.

A change in the power factor of the load supplied through the meter from 100 per cent to 50 per cent lagging shall not cause, at rated voltage and rated frequency, a change in the accuracy of registration of more than four per cent (4%) at 20 per cent of rated current.

EXAMPLE:— If the meter at 100 per cent power factor at 100 per cent of rated current, rated voltage and rated frequency registers 100.5 per cent then with a power factor of 75 per cent lagging, and at 133 per cent of rated current, it shall register not more than 103 per cent nor less than 98 per cent.

7. *Effect of Change in Frequency.* A change of 10 per cent in the frequency of the current supplied through the meter shall not cause at rated voltage and 100 per cent power factor a change in the accuracy of registration of more than two and one-half per cent (2½%) at either 100 per cent of rated current or 10 per cent of rated current.

8. *Accuracy of Three-Wire Meters.* The change in the accuracy of registration of a three-wire meter at rated voltage, rated frequency and 100 per cent power factor when either one of the current coils is cut out of circuit, shall not exceed two per cent (2%) with 100 per cent of rated current through the remaining coil.

9. *Effect of Change in Temperature.* The change in the accuracy of registration of the meter, when the temperature of the room in which it is being tested rises from 50 degrees to 100 degrees Fahrenheit, shall not, at rated voltage, exceed four per cent (4%) at either 100 per cent of rated current or 10 per cent of rated current.

10. *Effect of Temporary Overloads.* A temporary load (three seconds' duration) of 300 per cent of rated current applied five consecutive times shall not, at rated voltage, cause a permanent error of registration of more than one per cent (1%) at either 100 per cent of rated current or 10 per cent of rated current.

11. *Loss in Current Coils.* The total loss in the current coils of the meter at 100 per cent of rated current shall not exceed five-tenths of one per cent (0.5%) of the rated watts of the meter.

(B) POLYPHASE.

1. *General.* The limits of error specified, unless otherwise stated, refer to tests made with single phase current with both current coils of the meter in series and the two potential circuits connected in parallel to a single phase source of pressure.

2. *Mechanical Construction.* Material and workmanship are to be first class in every particular. All fixed parts are to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

3. *Accuracy of Adjustment.* Each element of the meter is to be capable of independent adjustment so that the meter will register on a single phase

circuit the true amount of energy supplied through it at rated voltage applied to both elements, rated frequency and 100 per cent power factor with an error not to exceed one per cent (1%) at either 100 per cent of rated current or 20 per cent of rated current through that element.

4. *Accuracy of Registration under Various Conditions of Load.* After the meter has been adjusted as specified in clause 3, it shall register the true amount of energy supplied through it at rated voltage, rated frequency and 100 per cent power factor, within the following limits:

Rated Current.		Error
		not to Exceed
From 10 per cent to 100 per cent.....		2.0 per cent
At 5 " "		3.0 " "
At 150 " "		3.0 " "

5. *Effect of Change in Voltage.* After the meter has been tested according to clause 4, it shall not, when tested at 90 per cent and 110 per cent of rated voltage, at rated frequency and 100 per cent power factor, show a variation from the tests made according to clause 4 or more than one and one-half per cent (1½%) at either 100 per cent of rated current or 10 per cent of rated current.

EXAMPLE:— If a meter at rated voltage registers 100.5 per cent at 100 per cent of rated current, then at 110 per cent of rated voltage and at 90 per cent of rated voltage, it shall register not more than 102 per cent nor less than 99 per cent.

6. *Effect of Change in Power Factor.* A change in the power factor of the load supplied through the meter from 100 per cent to 75 per cent lagging shall not cause, at rated voltage and rated frequency, a change in the accuracy of registration of more than two and one-half per cent (2½%) at 133 per cent of rated current.

A change in the power factor of the load supplied through the meter from 100 per cent to 50 per cent lagging shall not cause, at rated voltage and rated frequency, a change in the accuracy of registration of more than four per cent (4%) at 20 per cent of rated current.

EXAMPLE:— If the meter at 100 per cent power factor at 100 per cent of rated current, rated voltage and rated frequency registers 100.5 per cent, then with a power factor at 75 per cent lagging, and at 133 per cent of rated current, it shall register not more than 103 per cent nor less than 98 per cent.

7. *Effect of Change in Frequency.* A change of 10 per cent in the frequency of the current supplied through the meter shall not cause, at rated voltage and 100 per cent power factor, a change in the accuracy of registration of more than two and one-half per cent (2½%) at either 100 per cent of rated current or 10 per cent of rated current.

8. *Effect of Change in Temperature.* The change in the accuracy of registration of the meter, when the temperature of the room in which it is being tested rises from 50 degrees to 100 degrees Fahrenheit, shall not, at rated voltage, exceed four per cent (4%) at either 100 per cent of rated current or 10 per cent of rated current.

9. *Effect of Temporary Overloads.* A temporary load (three seconds duration) of 300 per cent of rated current applied five consecutive times shall not, at rated voltage, cause a permanent error of registration of more than one per cent (1%) at either 100 per cent of rated current or 10 per cent of rated current.

10. *Accuracy on Polyphase Circuits.* A meter when adjusted on single phase current as described in clause 3 shall register on a polyphase circuit at rated voltage and rated frequency with an error of not more than one per cent (1%) greater than the error shown when tested as specified in clause 1, at 10 per cent of rated current and 100 per cent power factor, 20 per cent of rated current and 50 per cent lagging power factor, 100 per cent of rated current and 100 per cent power factor, and 133 per cent of rated current and 75 per cent lagging power factor.

11. *Loss in Current Coils.* The total loss in the current coils of the meter at 100 per cent of rated current shall not exceed five-tenths of one per cent (0.5%) of the rated watts of the meter.

Section 2. This order shall take effect on July 1, 1909, and shall continue in force until abrogated or modified by the Commission; and from and after July 1, 1909, no electric current energy meters shall be set or put in use by any electrical corporation except those of such types as shall first have been certified by the Public Service Commission as conforming to the specifications in section 1 hereof.

Section 3. The Secretary of this Commission shall serve, in the manner prescribed by law, upon every electrical corporation within this district on or before Monday, June 28, 1909, a certified copy of this order; and on or before July 1, 1909, every electrical corporation so served shall notify the Commission whether the terms of this order are accepted and will be obeyed.

CASE NO. 1099, ORDER MODIFYING FINAL ORDER
(July 2, 1909.)

Ordered, That paragraph 1 of section B, subdivision 2 of Final Order herein be modified to read as follows:

The limits of error specified, unless otherwise stated, refer to tests made with single phase current with both current coils of the meter in series and the two potential circuits connected either in parallel to a single phase source of pressure or connected polyphase.

Electrical Corporations.— Certification of meters.

Case No. 1100.

Report on types of electric meters
in use

Hearing Order

Resolution certifying types of
meters

Amendatory resolution

Amendatory resolution certifying
additional types

REPORT UPON TYPES OF ELECTRIC METERS IN USE IN NEW YORK
CITY.

To the Public Service Commission for the First District.

SIRS:—One of the statements made by the consumers of electric current which led to the general investigation now being made into the affairs of electric supply companies in this district was that meters were being used for measuring current which were inaccurate and so likely to become erroneous that their use should be forbidden by this Commission. This subject was taken up in the course of the general investigation, and it was found to be of such a technical character that a report by an electrical meter expert was considered necessary. Dr. Cary T. Hutchinson, a consulting electrical engineer, was employed to make a careful examination of every type of meter used by the electric companies in this district, to report whether there are any types that are so inaccurate that their use should be prohibited, and to recommend standards that may be used to determine whether any type or design which has not been tested should be allowed to be used.

Dr. Hutchinson has completed two reports; one upon direct current meters, the other upon alternating current meters. He finds that there are no direct current meters which ought to be retired from use; but he does find that there are alternating current meters whose use should probably not be allowed. I recommend that these reports be accepted, filed and ordered printed. Hearing orders to make effective the recommendations contained in these reports will be submitted later.

Dr. Hutchinson has also transmitted the details of the tests he has made. These are not published with the report owing to their voluminous character. The facts are summarized in the reports herewith transmitted.

Respectfully submitted,

MILO R. MALTBY,

February 19, 1909.

Commissioner.

I.—DIRECT CURRENT METERS.

Public Service Commission, New York City.

DEAR SIR:—In accordance with your instructions of May 21st, reading as follows:

“We wish to secure from you a report upon each type, stating whether that type of meter is capable of registering current accurately when in good condition. Stated conversely, the question is: Are there any of these types which are so designed that they would be incapable of accurately measuring the current passing through them when in first-class condition? If there are any types which in ordinary use tend to become inaccurate much more quickly than a standard, we would wish to be informed of it.”

I have made a series of tests of the meters that have been submitted to me by your Commission, said to represent all the meters in use within the district under your jurisdiction; in addition, I have investigated, as far as possible, the design and construction of meters in use in this country.

The tests made cover all points essential to the accuracy of registration when the meter is in good condition; the time at my disposal, however, has not been sufficient to determine to what extent the accuracy changes with time and use. From the consumer's point of view, the chief factor affecting the permanence of registration is the gradual weakening of the brake magnets, causing the meter to run fast. As this weakening takes place very slowly in modern energy meters, probably not over one or two per cent in a year, it would require a considerable period for a measurable change to manifest itself. However, to prevent the use of inferior magnets, some requirement should be made to cover this very essential point; I am looking into this matter carefully and will embody my recommendations in a subsequent report.

Whether a meter registers accurately the energy passing through it depends upon the definition of the word “accurately”; no meter can register absolutely accurately; it seems to me, therefore, that a specification should be made to define “accuracy” in the commercial sense. Such a general outline specification is given below, covering the principal points involved in the construction and performance of the meter; this specification is based largely upon the results of the tests which I have made on the individual meters submitted to me, due consideration being also given to the present state of the art.

As a result of these tests and investigations, I have to report to you that all the direct current energy meters submitted to me are capable of accurate registration of the energy passing through them when in first-class condition and properly mounted; these are all Thomson Recording Wattmeters made by the General Electric Company, the maker's designation of the various types being as follows:

F-N	D-1	C-X
Q-3	J-2	C-5
D-E-N	D-2	C-Z-6
J-N (J-3)	E-G	C-X-6
D-N (D-3)	G-2	C-P
J-1	C-Y	

Although these tests have been confined to an individual meter representing each of the above types, I am of the opinion that a meter properly constructed in accordance with the design of any one of these types will, when in good condition, register accurately within the limits specified below.

The results of my tests and investigations of the alternating current meters will be embodied in a second report which will follow shortly.

My recommendation of the above types is based on what may be reasonably demanded of a modern direct current energy meter, as summarized in the following outline specification. The range of load and voltage called for are considerably in excess of the variations which ordinarily arise under service conditions, these wide limits being chosen to get a measurable difference in registration, and at the same time to indicate the maximum error that might arise under extreme conditions of operation; the limits of error in registration specified refer to the tests made under laboratory conditions, where the meter can be carefully mounted and adjusted and every precaution taken to secure high accuracy in the measurement of the various quantities involved.

In regard to the adjustment of the meter at full load and light load, I wish to call particular attention to the fact that in a number of the meters there is a marked shifting from day to day of these two supposedly fixed points on the registration curve (in some cases as much as two per cent), the meter being left untouched in the laboratory, subject to no outside influence except slight variations in the room temperature. To determine just what causes these variations would require a prolonged investigation; they are, however, probably due to temperature effects. In making comparative tests under various conditions, therefore, frequent determinations of the accuracy of registration at these two points should be made and the proper correction allowed for any change that may occur, particularly if the tests extend over a considerable period.

1. *Mechanical Construction.* Material and workmanship to be first-class in every particular, all fixed parts to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

2. *Accuracy of Adjustment.* Meter to be capable of adjustment to register with an error of less than one per cent (1%) the true value of energy supplied through the meter at rated voltage and at either rated current or 10% of rated current.

3. *Accuracy of Registration under Various Conditions of Load and Voltage.* After the meter has been adjusted as specified under clause 2, it shall register with an error of less than two per cent (2%) the true value of the energy supplied through it at rated voltage at any current from 10% of rated current to 150% of rated current; the error in registration at 5% of rated current and at rated voltage shall not be greater than seven and one-half per cent (7.5%); the change in the accuracy of registration for a 10% change in voltage either above or below normal shall not exceed three per cent (3%) at rated current or five per cent (5%) at 10% of rated current.

4. *Accuracy of Three-Wire Meters.* The change in the accuracy of registration of a three-wire meter when either one of the current coils is cut out of circuit shall not exceed three per cent (3%) for rated current through the remaining coil.

5. *Effect of Change in Temperature.* The change in registration of the meter when the temperature of the room in which it is installed rises from 50° to 100° Fahrenheit shall not be more than five per cent (5%) at rated voltage at either rated current or 10% of rated current.

6. *Effect of Temporary Overloads.* A temporary overload (three seconds) of 300% of rated current applied five consecutive times shall not cause a

permanent change of registration at rated voltage and rated current of more than two and one-half per cent (2.5%) for meters having a rated current capacity of less than 600 amperes, or of more than five per cent (5%) for meters of larger capacity; the permanent change in registration at ten per cent of rated current and rated voltage, due to such overloading, shall in no case exceed five per cent.

7. *Loss in Current Coils.* For meters rated at 50 amperes or less the total loss in the current coils at rated load shall not be more than one per cent (1%) of the total power supplied; for larger meters this loss shall not exceed two-tenths of one per cent (0.2%).

This specification covers only those characteristics of the meter which may affect the accuracy of registration from the consumer's point of view; that is, a meter which fulfills the above specification will, when properly installed and correctly adjusted, show no tendency to over-register, within the limits specified, under normal conditions of operation. There are, however, a number of other points which affect the excellence of an energy meter; namely, the friction of the moving element, the power lost in friction, in the potential circuit, and in the disc, the speed of the meter, the driving torque, the weight of the moving element, the ratio of driving torque to weight, and the ratio of driving torque to frictional torque. These data have been determined for all the meters submitted, and in general it may be stated that it is desirable that a meter have the least possible friction, small loss in potential coil, high ratio of driving torque to weight, and high ratio of driving torque to frictional torque.

The following points regarding the design and use of the Thomson watt-meter should also be noted:

1. The internal connections of a Thomson meter are such that the losses in the meter are borne in part by the supply company and in part by the consumer; the former stands the losses in the potential circuit, disc, and frictional resistance, the latter pays for the loss in the current coils. Consequently, from the consumer's point of view, the loss in the current coils only is of importance.

2. A heavy overload, such as a short circuit in the installation supplied through the meter, may cause a considerable weakening of the permanent magnets, and thus cause the meter to run fast. No attempt, however, was made to determine the effect of overloads greater than 300% of full load, as it is always possible to protect a meter from heavier overloads by installing proper fuses or circuit breakers. If the meter is not so protected the consumer should be warned that a heavy short circuit may make his meter run considerably fast, and a readjustment of its speed after such a heavy overload should be requested. It should be noted, however, that the later designs of the Thomson meter are much less affected by overloads than the earlier types, as the magnets are so designed and are so arranged with reference to the current coils as to reduce this effect to a minimum.

3. The magnetic field produced by other instruments or wiring in the vicinity of a wattmeter may affect the registration to a considerable extent; particularly when the meter is installed on a switchboard on which are located bus-bars carrying heavy currents; the result may be either an over-registration or an under-registration, depending on the direction of the stray fields. By adjusting the meter after it is installed the effect of any constant stray field can be compensated for, but accurate registration is impossible when these effects are large and variable.

4. A wattmeter should always be installed in such a manner as to reduce mechanical vibrations to a minimum, as the friction of the meter is largely affected by such variations, which may cause the meter to run continuously or to "creep" when no current is being supplied through it.

DETAILED REPORT.

The direct current meters submitted to me for examination and test are listed in the following table; these meters are all from the New York Edison Company and are all of General Electric Company make. In the

first column is given the General Electric Company's type designation, as marked on the Edison Company's tag; in the second column the Edison Company's serial number; in the third column the manufacturer's serial number; in the fourth column the rated current capacity of the meter; in the fifth column the rated voltage, and in the sixth column is indicated whether the meter is designed for a two-wire or three-wire system.

	Type.	Owner's NO.	Manf'g NO.	Rated current.	Rated voltage.	Wire system.
<i>Class I—</i>						
	F-N	4173	147531	50	240	2
	Q-3	5556	157827	7.5	240	3
	D-E-N	7276	176422	450	240	2
	J-N (J-3)	26556	327984	5	240	2
	D-N (D-3)	28574	342832	25	240	2
	J-1	31269	440749	5	120	2
	D-1	32992	478237	50	240	3
	J-2	43200	604875	7.5	240	3
	D-2	50777	684034	50	240	3
<i>Class II—</i>						
	E-G	52885	1552183	1200	120	2
	G-2	7983	185040	2500	240	2
<i>Class III—</i>						
	C-Y	62838	1034484	10	240	3
	C-X	71069	1137549	150	240	2
<i>Class IV—</i>						
	C-5	92197	1488596	300	120	2
	C-Z-6	90372	1480735	5	120	2
	C-X-6	98594	1550861	300	240	2
	C-P	PD56	1103548	5	120	2

DESCRIPTION OF VARIOUS TYPES.

Class I

The meters in this class are all old types manufactured by the General Electric Company prior to 1905. Their distinguishing characteristics are:

1. Rectangular field coils placed at right angles to the back of the meter.
2. A rectangular shunt coil for light load adjustment fitting inside one of the field coils.
3. Brushes with spring control.
4. Resistance coil in shunt circuit wound on a card located in the back of the meter, except in the type D-E-N which is provided with a resistance external to the meter.
5. Drum-shaped armature.

The individual meters in Class I are distinguished from one another chiefly in the arrangement of the permanent magnets and in the material of the disc. Their individual characteristics are as follows:

F-N—Copper disc, three magnets symmetrically placed around the edge of the disc.

Q-3—Copper disc, two magnets placed perpendicular to the back of the instrument, with the poles toward the front of the meter.

D-E-N—Copper disc, three magnets placed symmetrically around the edge of the disc, external cage resistance.

J-N (J-3)—Copper disc, two magnets placed parallel to the back of the instrument with poles of one magnet to the right and the other to the left.

D-N (D-3)—Differs from F-N only in dimensions of frame.

J-1—Copper disc, two magnets placed at right angles to the back of the case with poles toward the back.

D-1—Copper disc, three magnets placed symmetrically around edge of disc.

J-2—Aluminum disc, otherwise same as J-1.

D-2—Aluminum disc, otherwise same as D-1.

Class II

The meters of this class are known as high capacity astatic meters, and are designed for switchboard service for installations taking heavy currents. To reduce the effect of stray fields the meter is provided with two armatures oppositely wound and the discs are enclosed in an iron shield. The high resistance in the potential circuit is mounted in a cage external to the meter.

E-G — This meter has a copper disc and three magnets placed symmetrically around the edge of the disc. The field coil consists of two turns opposite the lower armature, and the shunt coil is made in two parts, mounted on top of the two field coils opposite the upper armature.

G-2 — This meter has two aluminum discs one above the other, with two magnets for each disc placed parallel to the back of the case, one magnet with its pole to the right, the other to the left. The field "coil" is a single horizontal copper bar between two heavy copper terminals. The shaft of the instrument passes through this bar, one armature being just above and the other just below the bar. The shunt coil is made in two parts, placed on opposite sides of the upper armature.

Class III

The meters of this class were introduced by the General Electric Company about 1905, and are quite different in appearance from the older types. Like all modern meters they have aluminum discs; they are distinguished from the meters of Class I by the following:

1. Circular field coils placed parallel to the back of the meter.
2. Circular shunt coil, held in position by a clamp hinged to the meter frame.
3. Gravity control brushes.
4. Resistance coil in shunt circuit wound on spool located in back of meter.
5. Spherical armature.

The two meters in this class are identical in construction, except that the terminals for the C-Y meter are arranged for connection to a three-wire system, whereas the C-X meter is arranged for use on a two-wire system.

Class IV

The meters of this class are similar to those of Class III, the chief differences being:

1. Circular shunt coil, held in position by a clamp swinging about a stud fixed to one side of the meter frame.
2. No external resistance in shunt circuit.

The four meters in this class are practically identical in construction; the C-5 meter is back connected, the C-Z-6 side connected, otherwise these two are identical. C-Z-6 differs from C-X-6 only in the voltage rating, the former being for 120 volts, the latter for 240. The C-P meter is identical in construction and rating with C-Z-6, except that it is equipped with an automatic contact device for operating the prepayment attachment; no test was therefore made on this particular meter.

PREPAYMENT ATTACHMENT.

The prepayment attachment supplied with the Thomson meter is furnished either as a part of the meter, or separately; if the former, it is actuated directly by a train of gears meshing with the meter register; if the latter, by means of an electromagnet operated by a contact device, which in turn is controlled by the registering mechanism. As these meters are all provided with the ordinary indicating dials, enabling the consumer at any time to check the total energy supplied against the total number of coins deposited, no test of the prepayment device is necessary.

THEORY.

A Thomson Recording Wattmeter is essentially a small motor generator set, the motor being similar in all respects to an ordinary direct current motor, except that no iron is used in its construction. The generator consists of a conducting disc driven by the motor between the poles of fixed permanent magnets, thus causing eddy currents to circulate within the mass of the disc. The armature of the motor element of the meter is wound with a large number of turns of fine wire, the coils of the armature being connected to a small silver commutator. By means of brushes bearing on the commutator, the armature is connected in series with a stationary coil (called the "shunt coil") so placed as to react on the armature and to neutralize the friction of counting train, gearings, brushes and air; in the older meters the armature and shunt coils are also connected in series with an external resistance. The circuit formed by the armature, shunt coil and resistance is connected directly across the supply mains; the main or series field of the meter is wound with heavy wire and is connected directly in series with the load.

The armature, commutator and disc are all mounted on a light vertical spindle, which revolves on a jewel bearing. A worm on the spindle engages with the counting train which indicates the consumption of energy on the dial of the meter.

Since there is no iron in the motor element of the meter, the flux due to the current in the series coils is directly proportional to this current; also since the speed of rotation is kept so slow that the counter electromotive force due to rotation is negligible, the flux due to the current in the armature of the meter is proportional to the armature current and therefore to the impressed voltage, provided the resistance of the entire shunt circuit consisting of armature, shunt coil and external resistance remains constant; the torque due to the reaction of these two fluxes is therefore directly proportional to the power supplied through the meter. Opposing this driving torque is first, the resistance due to the friction of the various bearing surfaces, and second, a drag due to the eddy currents induced in the disc. The effect of friction can be practically neutralized by means of the shunt coil, adjusting its position until the small driving torque due to the reaction between the flux through it and the armature flux just counterbalances the frictional resistance, thus leaving only the drag due to the eddy currents in the disc to oppose the main driving torque. Therefore, for a given current supplied through the meter, the disc will speed up until the drag due to the eddy currents in the disc is just equal to the main driving torque, and, since this drag is directly proportional to the speed, the disc will assume a constant speed directly proportional to the main driving torque, which in turn is directly proportional to the power supplied through the meter. Consequently, the energy passing through the meter in any given time will be directly proportional to the total number of revolutions made in that time, as registered on the meter dial. Such is the law of the theoretically perfect meter, but this direct proportionality between speed and power does not hold exactly in practice, due chiefly to changes in friction with the speed and unequal heating of the various parts of the meter.

CONNECTIONS.

In a two-wire meter the two current coils are connected in series inside the instrument and the two free ends are brought out to the meter terminals, which are connected respectively to the "line" and "load" sides of the supply wires; the potential circuit, consisting of the armature, shunt field coil and external resistance is connected between the "line" terminal of the current coil and the other supply wire. In a three-wire meter the ends of each current coil are brought out to two separate terminals, which are connected respectively to the "line" and "load" sides of each of the outer wires of the system; the potential circuit is connected between the "line" side of one current terminal and the neutral wire. These are the standard connections adopted by the General Electric Company for all their Thomson Recording Wattmeters.

TESTS.

All the meters submitted have been carefully tested to determine their accuracy under various conditions of operation, the losses in the various parts of the meter, etc. The tests were carried out at the Electrical Testing Laboratories and the Electrical Engineering Laboratory of Columbia University. All instruments used were carefully checked against the secondary standards in these two laboratories, which in turn had been checked against the standards in the Bureau of Standards at Washington.

a. *Accuracy for Various Loads.*—To determine the accuracy of the meter when a given load is being supplied through it, the following method was adopted, which is that usually employed. The current coils were disconnected from the shunt circuit and connected directly in series with a storage battery of low voltage, an adjustable rheostat to control the current, and a standard Weston ammeter. The proper voltage across the shunt circuit was obtained from a high voltage storage battery with proper rheostats in circuit for adjustment. A standard Weston voltmeter connected across the terminals of the shunt circuit was used to measure the voltage. When the current and voltage had been adjusted to the desired values the time required for the disc to make a certain number of complete revolutions was determined by means of a stop-watch. The true watts "W" is the product of the amperes and volts as read from the standard ammeter and voltmeter respectively. The corresponding wattmeter reading "W_i" is equal to the product of the wattmeter constant and the number of revolutions per second; the wattmeter constant is always marked on the instrument and depends solely on the gearing of the counting train to the worm on the shaft of the rotating element. The per cent error in registration is then equal to $\frac{100(W_i - W)}{W}$. If the meter runs fast, that is, if W_i is greater than W, this quantity will be positive; if the meter runs slow, this quantity will be negative.

The meter was first adjusted at normal voltage to register correctly to within 1% for both full load current and 10% of full load current. The error in registration was then determined at normal voltage for 5%, 10%, 25%, 100%, 150%, and then again for 10% of rated current. All observations were taken with the cover of the meter in place and sufficient time allowed after any change in voltage for the potential circuit to reach a constant temperature; this was determined by noting the current in the potential circuit and waiting until this current became constant; which usually required about half an hour. To obtain theoretically comparable results, it would likewise be necessary to allow sufficient time after each change in the main current for the temperature of the potential circuit to obtain its final value corresponding to this particular current, but, as the additional heating of the potential circuit and disc due to the main current is small, only sufficient time was allowed between the readings at normal voltage to make the necessary adjustments. The heating of the current coil of itself has no effect on the registration of the meter, but indirectly the radiation from the current coil tends to increase the temperature of the potential circuit, thereby decreasing the current in this circuit and the resultant torque. This, however, is in part compensated for by an increase in the temperature of the disc, due to radiation from the current coil, causing the resistance of the disc to increase and thereby decreasing the drag due to the eddy currents. To check this, the registration at 10% of rated current was again determined immediately after the 150% load; except in the case of the meters designed for 300 amperes or over the difference in the two determinations of the registration at 10% load was practically negligible.

The results of these tests on the various meters are given in paragraph 1 of the attached test sheets in the column headed 100% voltage.

b. *Effect of Variation in Voltage.*—The effect of change in voltage corresponding to a given load was determined by first finding the current in the potential circuit corresponding to 90%, 100% and 110% of rated voltage, with no current in the series coils, allowing sufficient time between the readings for the temperature of the circuit to become constant. The desired current

was then put through the series coils, and the speed determined for the three values of the current in the potential circuit previously found, corresponding respectively to 90%, 100% and 110% of rated voltage. In this way it was possible to pass from one voltage to the next without waiting for the temperature of the potential circuit to assume its final value. The results of these tests are given in paragraph 1 of the attached test sheets, the actual readings at 90% and 110% voltage being corrected to allow for any difference between the readings corresponding to 100% voltage and the original readings determined by holding the voltage constant at its rated value.

c. *Three-Wire Meters — Effect of Unbalanced Loads.*—The three-wire meters were tested in the same manner as the two-wire meters by connecting the two current coils in series and applying the proper voltage to the shunt circuit. To determine the effect of unbalanced loads the accuracy of registration was determined with various values of the current in one coil only, the other coil being disconnected. The results of these tests are given on the attached test sheets under paragraph 2.

d. *Effect of Change in Temperature.*—To determine the effect of change in temperature on the registration of the meters one of the older meters (D-2) and one of the later types (C-Z-6) were placed in a box the temperature of which could be held constant at any desired value. The error in registration was then determined at normal voltage for 5%, 10% and 100% of rated current, for an air temperature of approximately 56° F. and 100° F. The results of these tests are given in paragraph 3 of the attached test sheets. In view of the large change in registration shown by these two meters, it would have been desirable, had there been sufficient time, to make such a test of each of the direct current meters submitted. However, as these meters are all practically identical in those particulars which it is reasonable to suppose would cause a change in registration with change in temperature, it is doubtful if the results would have been materially different from those obtained from the two meters tested.

e. *Effect of Overloads.*—A properly designed meter should not be permanently affected by momentary increases of the current to 300% of its normal value. To test this a current three times the rated current capacity of the meter was put through the current coils for approximately three seconds, and the error in registration after this momentary overload was determined at 5%, 10% and 100% of rated current. This overload was again applied five consecutive times, each time for approximately three seconds, and a similar set of readings taken. In determining the registration after the overloads the current in the potential circuit was adjusted to the value previously found corresponding to normal voltage at no load; in this way the temporary heating effect of the overloads was eliminated. The results of these tests are given in paragraph 4 of the attached test sheets.

f. *Determination of Losses.*—The energy losses in a wattmeter are as follows:

1. Loss due to resistance of shunt circuit.
2. Loss due to resistance of current coils.
3. Loss in disc due to eddy currents.
4. Loss due to friction of bearings, counting train, brushes and air.

The losses in the shunt and series circuits of the meter depend on the respective currents and resistances of these circuits, the watts lost in each circuit being given by the product of the resistance and the square of the current flowing in that circuit. The eddy current loss in watts at rated load is equal to $1.03 \times 10^{-6} nT$, where n is the number of revolutions per minute and T the torque in millimeter-grams. The energy lost in friction at rated load is equal to the energy lost in eddy currents multiplied by the ratio of the current required to overcome friction to rated current. These losses were determined for each of the meters submitted for test, and are given in paragraph 5 of the attached test sheets as a percentage of the watts supplied through the meter when operated at normal voltage and rated current.

g. *Determination of Full Load Torque.*—The full load torque of the meter was determined by putting normal voltage on the shunt circuit and rated

current through the series coils and measuring the torque by means of a torque balance; the results are given in paragraph 6 of the attached test sheets.

h. Determination of Torque Required to Overcome Friction.—The friction of a meter is an extremely variable quantity, depending on the condition of the bearings, commutator and counting train, and also to a large extent on the manner in which the meter is supported. The friction measured under laboratory conditions may, therefore, differ considerably from the friction of the meter in service. For purposes of comparison, however, the torque required to overcome friction was determined for all the meters submitted, the method employed being as follows:

Normal voltage was put on the potential circuit and sufficient current put through the series coils to start the armature rotating. The current was then gradually reduced until the disc ceased to rotate, and the corresponding current noted. The direction of the current through the meter was then reversed and the same series of operations gone through with, the current through the meter when rotation just ceased being again noted. When the current is in the normal direction the torque due to the shunt coil is in the same direction as the driving torque; when the current is reversed the torque due to the shunt coil opposes the driving torque. The driving torque in each case is proportional to the current, and as the torque due to the shunt coil enters as a positive quantity in one case, and a negative in the other, by taking the average of the two current readings, the torque due to the shunt coil is eliminated, the average current being that required to overcome the true friction of the meter. The corresponding torque required to overcome friction is equal to the product of the full load torque and the ratio of this average current to rated current. The current required to overcome friction as thus determined is given in paragraph 7, and the corresponding torque in paragraph 6, of the attached test sheets.

i. Determination of Starting Current.—The current required to just start rotation in the normal direction is usually somewhat in excess of the current at which rotation will just cease, as the starting friction is larger than the running friction. The value of the starting current for each meter is given in paragraph 8 of the attached test sheets as a per cent of the rated current.

j. Weight of Moving Element.—After the preceding tests had been completed, the moving element was removed from the meter and weighed on an accurate balance; the results are given in paragraph 6 of the attached test sheets.

SOURCES OF ERROR.

1. *Stop-Watch Error.*—Of the instruments used in making the tests the stop-watch is likely to introduce the greatest error, although the watch itself may be accurately regulated. In all the tests made, the speed of the disc was determined by noting the time required to make a certain number of complete revolutions, the number of revolutions being so chosen that the time required was approximately sixty seconds; the stop-watch can be read to one-fifth of a second, so that the error of a single stop-watch reading should not be over one-third of one per cent: to reduce this error four different stop-watches were used in determining the speed corresponding to each individual test, thereby reducing the average stop-watch error to about one-tenth of one per cent.

2. *Voltmeter and Ammeter Error.*—The large scale of the voltmeter and the ammeter employed in these tests made it possible to read these instruments with an accuracy of one-tenth of one per cent.

3. *The Maximum Error of Observation.*—Any individual test that appeared to give erratic results was always checked, thus eliminating accidental errors in reading the instruments; the maximum error of observation in the results given in the attached test sheets is therefore not over three-tenths of one per cent. In addition to this error of observation there is also the shifting of the registration curve described above (p. 4); as there pointed out, any shifting during a series of tests can be allowed for by frequently checking the light load and full load registration under normal conditions.

The detail records of the tests made on all the meters listed on page 8, except type C-P, are attached. The specification given above is based substantially on these test records.

In conclusion, I repeat that the limits of error specified apply to tests made on meters in good condition in the laboratory.

Respectfully submitted,

CARY T. HUTCHINSON.

October 24, 1908.

II.—ALTERNATING CURRENT METERS.

Public Service Commission, New York City.

DEAR SIRS:—

This is the Part II of my report on energy meters in use in greater New York, the first part of which, including direct current meters, was submitted to you on October 24th. Part II includes tests on all the alternating current meters submitted to me, which are said to represent all the types of alternating current meters in use in this District. These meters are all energy meters of the induction type; they differ among themselves only in details of the design.

As with the direct current meters, I have formulated an outline specification, based on these tests and examinations, which states the limits of the permissible error in registration for such meters when in first-class condition.

The following "types" of meters comply with this outline specification.

GENERAL ELECTRIC COMPANY.

- Type I
- " IP-2
- " D-3

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY.

- Round Type—two wire
- Type A—three wire, self contained
- " A—three wire, with current transformer
- " B—two wire
- " B—two wire, prepayment
- " C—two wire
- " C—three wire

STANLEY INSTRUMENT COMPANY.

- Type G—2d form
- Jewel type

FORT WAYNE ELECTRIC WORKS.

- Type K

These types are described in detail below. Although I have tested only one meter of each type, I am of the opinion that a meter properly constructed in accordance with the design of any one of these types will, when in good condition, register accurately within the limits specified. In the case of those meters designed to be used with a current transformer the tests have covered both the meter and the transformer, and in the specification the meter and the transformer are to be considered as a unit.

The following meters failed to meet the requirements of the specification in certain particulars; with the exception of the Westinghouse type C, polyphase, these are all meters of early design and are no longer manufactured. A more extended investigation of these types may show that the discrepancies noted are due to defects in the individual meters rather than to defects in design. The only meters departing radically from the specification are the Duncan meters made by the Siemens-Halske Company of America and the General Electric Company's type C-1, the large errors shown by these two meters being due to excessive friction in the bearing surfaces, which could not be eliminated.

GENERAL ELECTRIC COMPANY.

Type C-1 — On account of the abnormal friction in this meter, the error at 10% rated current was 36.0% with the registering mechanism in place; a second meter of this type was also tested but gave no better results. On account of this large error at light load the tests under various conditions of voltage, power-factor, etc., are of little value as indicating the effect of varying these factors on a meter of this type capable of proper adjustment.

Type C-4 — This meter comes within the specification except at 10% rated watts and 50% power-factor, where the error was -4.6% as against $+4.0\%$ allowed in the specification.

Type DF-2-PP — This meter comes within the specification except at 100% rated watts, 110% frequency and 75% power-factor, where the error was -4.4% as against $+4.0\%$ allowed in the specification. The three phase test was not made on this meter.

Type DF-2 — This meter comes within the specification except at 100% rated watts and 50% power-factor, where the error was -5.2% as against -4.0% allowed in the specification.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY.

Round Type, Three-Wire, with Transformer — This meter comes within the specification except at two points, namely, at 5% rated current, where the error was -3.5% as against $+2.5\%$ allowed in the specification; and at 10% rated watts and 50% power-factor, when the error was $+4.9\%$ as against the $+$ allowed in the specification.

Round Type, Polyphase — This type of meter is not provided with any means of adjusting one motor element with respect to the other; it was therefore impossible to make the two elements exert the same effect on the disc. In this particular meter it was found that for 10% rated current through the two elements separately the errors were respectively -3.6% , and $+2.8\%$, and with rated current through the two elements separately the errors were respectively -3.0% and $+3.4\%$. When the current coils of the two elements were connected in series the error in registration came within the specified limits. On account of the considerable difference in the accuracy of registration of the two elements separately, this meter would also fail to meet the requirements of the polyphase test.

Type C, Polyphase — The polyphase test on this meter showed a maximum difference of 3.1% in the accuracy of registration when operating three-phase and when operating single phase; to determine whether this comparatively large discrepancy is due to faulty construction of this particular meter or whether it is inherent in the design, would require a careful investigation of several meters of this type. In other respects this meter came well within the specification.

STANLEY INSTRUMENT COMPANY.

Type G, Old Form — This meter comes within the specification except at 10% rated current and 110% frequency, where the error was $+2.3\%$ as against $+2.0\%$ allowed in the specification.

SANGAMO ELECTRIC COMPANY.

Type Gutmann — This meter failed to come within the specification at 10% rated current and 90% voltage, where the error was -4.8% as against $+2.0\%$ allowed in the specification; at 10% rated watts and 50% power-factor, where the error was -9.0% as against $+4.0\%$; also a change in temperature of 50° F. caused a change in the registration of 7.0% at 10% rated current and 5.5% at rated current, as against 4.0% allowed in the specification. This meter was found very unstable in inaccuracy, changing considerably from day to day.

SIEMENS-BALSKÉ ELECTRIC COMPANY OF AMERICA.

Type Duncan — The error in the registration of this meter at 10% rated current was —12.7% as against + 1.0% allowed in the specification. On account of this large error at light load the tests under various conditions of voltage, power-factor, etc., are not a fair indication of the effect of varying these factors in a meter of this type capable of proper adjustment.

As some of the older Thomson commutator wattmeters are still in use in this district on alternating current circuits, one of these meters, General Electric Company's Type D-2, Maker's No. 684034, was tested on a 60 cycle alternating current circuit at 100%, 75%, and 50% power factor. The errors in registration under the various conditions were as follows:

Watts in Per Cent of Rated Watts.	100% Power-Factor.	75% Power-Factor.	50% Power-Factor.
5	—2.0	+5.5	+11.0
10	—0.6	+4.5	+10.0
100	+0.5	+2.4	+ 4.5

that is, the meter runs fast on low power-factors. These results would be expected since, on account of the reactance of the potential circuit, the current supplied through the meter at low power-factors lags behind the current in the potential circuit by a smaller angle than it does behind the impressed voltage. Commutator wattmeters therefore are suitable only for measuring energy supplied at a power-factor of practically 100%.

SPECIFICATION.

1. *General.*

In the case of a three-wire single phase meter, the limits of error specified, unless otherwise stated, refer to tests made with the two current coils connected in series and rated voltage applied to the potential circuit. In the case of a polyphase meter the limits of error specified, unless otherwise stated, refer to tests made with single phase current, with both current coils of the meter in series and the two potential circuits in parallel and connected to a single phase source of pressure.

2. *Mechanical Construction.*

Material and workmanship to be first-class in every particular, all fixed parts to be securely held in their proper position, moving element to be as light as possible consistent with proper strength and all bearing surfaces to be designed to reduce friction to the minimum.

3. *Accuracy of Adjustment.*

Single phase meters to be capable of adjustment to register with an error of less than one per cent (1%) the true value of energy supplied through the meter at rated voltage and frequency and 100% power-factor, at either rated current or 10% of rated current.

Each element of a three-phase meter to be capable of independent adjustment so that the meter will register on a single phase circuit with an error of less than one per cent (1%) the true value of the energy supplied at normal frequency and 100% power-factor through either element alone, for either rated current or 10% of rated current through that element, with normal single phase voltage applied to both elements.

4. *Accuracy of Registration under Various Conditions of Load and Voltage.*

After the meter has been adjusted as specified under clause 3, it shall register with an error of less than two per cent (2%) the true value of the energy supplied through it at rated voltage, frequency and 100% power-factor at any current from 10% of rated current to 100% of rated current; the error in registration under the same conditions at 5% rated current and 150% rated current shall not be greater than two and one-half per cent (2.5%); the change in the accuracy of registration at rated frequency and 100% power-factor for a 10% change in voltage either above or below normal, shall not exceed one per cent (1%) at either rated current or at 10% of rated current.

5. *Effect of Change in Frequency and Power-Factor.*

A change in the power-factor of the load supplied through the meter at normal voltage and frequency from 100% to 50% lagging shall not cause an

increase in the speed of the meter at rated watts of more than two per cent (2%), or a decrease of more than four per cent (4%), and shall not cause an increase or decrease of speed at 10% of rated watts of more than four per cent (4%).

A change of 10% in the frequency of the current supplied through the meter at normal voltage and 100% power-factor shall not cause a change in the accuracy of registration at either rated current or 10% of rated current of more than two per cent (2%).

A change of 10% in the frequency of the current together with a change in the power-factor from 100% to 75% lagging, the voltage being held at its rated value, shall not change the speed of the meter at either rated watts or 10% of rated watts more than four per cent (4%).

6. Accuracy of Three-Wire Single Phase Meters.

The change in the accuracy of a three-wire single phase meter at rated voltage, frequency and 100% power-factor, when either one of the current coils is cut out of circuit shall not exceed two per cent (2%) for rated current through the remaining coil.

7. Accuracy of Polyphase Meters.

A polyphase meter when adjusted on single phase current as described above under clause 3, shall also register on a polyphase circuit at rated voltage and frequency within one per cent (1%) of the same accuracy shown on the single phase test, both at 10% rated current and at rated current at both 100% power-factor and 50% power-factor.

8. Effect of Change in Temperature.

The change in registration of the meter when the temperature of the room in which it is installed rises from 50° to 100° F. shall not be more than four per cent (4%) at rated voltage at either current or 10% of rated current.

9. Effect of Temporary Overloads.

A temporary overload (three seconds), of 300% of rated current applied five consecutive times shall not cause a permanent change of registration at rated voltage at either rated current or 10% of rated current of more than one per cent (1%).

10. Loss in Current Coils.

The total loss in the current coils of the meter at a rated current shall not exceed five-tenths of one per cent (0.5%) of the rated watts of the meter.

As in the case of the direct current meters, this specification covers only those characteristics of the meter which may affect the accuracy of registration unfavorably to the consumer. The following points regarding the design and use of alternating current wattmeters should also be noted:

1. The internal connections of these meters are such that the losses in the current coils of the meter are borne by the consumer; the other losses are borne by the supply company.

2. A heavy overload, such as a short circuit in the installation supplied through the meter, may cause weakening of the magnets and thus cause the meter to run fast, but the effect of such overloads on alternating current meters is as a rule not as great as with direct current meters.

3. Unidirectional stray magnetic fields of constant magnitude have no effect on the registration of an alternating current meter; fluctuating stray fields or fields due to alternating current circuits in the vicinity of the meter may, however, affect its registration. By adjusting the meter after it is installed, the effect of any such field of constant magnitude can be eliminated, but accurate registration is impossible when such stray fields are large and variable.

4. Care should be taken to install the meter in a manner to reduce mechanical vibrations to a minimum; the final adjustment of the speed at 10% and 100% rated current should be made after the meter is installed and connected, taking the voltage and current for this purpose from the supply mains.

5. On account of the high reactance of the potential circuit of an induction meter, together with the fact that the coils in this circuit are wound on iron cores, the effective value of the current flowing in this circuit for a given

impressed voltage will depend upon the shape of the pressure wave; consequently, the torque and therefore the speed, for a given load supplied through the meter, will be a function of this wave shape. In case the pressure on a given circuit has a varying wave form, as may happen, for example, if the circuit is supplied from different generators at various times, the effect of the maximum variation in wave form on the accuracy of the meter should be determined, and no meter should be allowed on this circuit which is appreciably affected by such variations. If the pressure on the circuit has a constant wave form, even though it may not be a true sine wave, then, by adjusting the meter after it is installed, using for this purpose the pressure on the supply circuit, the particular form of this wave will be immaterial, provided the accuracy of the standard with which the service meter is compared is not affected by wave form variations. In the case of a polyphase meter, each element should be adjusted to read correctly when connected to the particular phase on which it is to operate.

DETAILED REPORT.

The alternating current meters submitted to me for examination and test are listed in the following table. In the first column is given the manufacturing company's type designation; in the second column the manufacturing company's serial number; in the third column the name of the owner of the meter; in the fourth column the owner's number; in the fifth column the rated current capacity of the meter; in the sixth column the rated voltage and in the last two columns the wire system, first the number of wires and second the number of phases.

GENERAL ELECTRIC COMPANY.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System.	
						No. of Wires.	No. of Phases
C-1	247806	N. Y. & Q.	931	15	100	2	1
C-4	363441	N. Y. & Q.	358	5	105	2	1
DF-2-PP	801015	N. Y. Ed.	1672	15	210	3	3
DF-2-PP		Br'klyn Ed.	80168	5	240	3	3
DF-2	599794	N. Y. Ed.	1259	3.5	210	3	1
I	1424332	N. Y. Ed.	357	5	210	3	1
IP-2	1235381	N. Y. Ed.	PD103	5	210	3	1
D-3	1411224	N. Y. Ed.	7002	5	220	3	3

WESTINGHOUSE ELECTRIC & MFG. CO.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System	
						No. of Wires.	No. of Phases.
Round	19585	United	....	10	200	2	1
Round	60591	United	....	10	100	3	1
A-Self Cont'd	281745	United	....	5	100	3	1
Round	207476	N. Y. & Q.	503	80	200	3	3
A	282648	United	....	80	100	3	1
B	514964	N. Y. Ed.	3741	5	100	2	1
B-Prepayment	379106	N. Y. Ed.	PD27	10	100	2	1
C	666508	United	...	5	100	2	1
C	646668	United	....	5	200	3	1
C	409453	N. Y. Ed.	4720	10	200	3	3

STANLEY INSTRUMENT CO.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System.	
						No. of Wires.	No. of Phases.
G (1st form)	11638	N. Y. & Q.	622	15	100	2	1
G (2d form)	54003	R. L. & R.	1112	10	110	2	1
Jewel	06575	R. L. & R.	1203	5	110	2	1

FORT WAYNE ELECTRIC WORKS.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System	
						No. of Wires.	No. of Phases.
K	65009	N. Y. & Q.	856	10	100	2	1

SANGAMO ELECTRIC COMPANY.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System.	
						No. of Wires.	No. of Phases.
Gutmann	10919	N. Y. & Q.	854	10	100	2	1

SIEMANS-HALSKE ELECTRIC CO. OF AMERICA.

Type.	Mfg. No.	Owner.	Owner's No.	Rated current.	Rated voltage.	Wire System.	
						No. of Wires.	No. of Phases.
Duncan	61266	N. Y. & Q.	34	25	110	2	1

The following is a detailed description of these various meters:

GENERAL ELECTRIC COMPANY.

C-1—Horse-shoe shaped case with separately sealed terminal chamber, non-direct reading register, sheet metal cover, separate reactive coil mounted back of meter register with axis parallel to front of register, one potential coil on a vertical "C" shaped laminated core embracing back edge of disc, and adjustable along a horizontal line parallel to back of meter; two current coils beneath the disc, one on either side of the laminated core; phasing coil on core of potential coil short circuited through a piece of resistance wire; light load adjustment a separate electromagnet with shading clip over left hand edge of disc toward the front, one brake magnet over front edge of disc.

C-4—Identical in general design with C-1; differs chiefly in following details: cast iron cover, direct reading register, axis of reactive coil perpendicular to face of register, window for observing motion of disc.

DF-2-PP—This is a polyphase meter and consists of two motor and brake elements arranged around a single disc; these elements are practically identical in construction with the type C-4, except that there is no separate electromagnet for compensating for friction; this is accomplished by shifting the position of the potential coil of each element with respect to its current coils. The meter has an irregular shaped sheet metal cover of quite liberal dimensions. The entire shunt circuit of one element can be shifted radially to equalize the effect of the two elements on the disc.

DF-2—Also known as "High Torque Meter." Rectangular shaped case with rounded top, separately sealed terminal chamber, no reactive coil, one potential coil so mounted on a laminated iron core that only a fractional part of the flux cuts the disc, two phasing coils short circuited through a piece of resistance wire mounted on two polar projections from the iron core immediately over the disc, one current coil beneath back edge of disc, light load adjustment the same as that used in type "C-1" and "C-4," but placed over front edge of disc between the two brake magnets, non-creeping device a small iron wire mounted vertically near the disc hub, two brake magnets with poles over the right and left-hand edges of the disc, an iron shield between the brake magnets and the motor element.

I—The general construction of this meter is similar to that of type D-F-2 with the following exceptions: The meter is rectangular in shape, there are two current coils, one phasing coil, the light load adjustment is a small rectangular conductor mounted directly above the disc and encircling the potential pole, two brake magnets are provided with their poles facing each other over the front edge of the disc, a dog and pointer is mounted between the worm wheel and the register to permit of removing the register without affecting the meshing of the worm wheel with the worm, no magnetic shield between brake magnets and meter element.

IP-2—Same as type I, except the meter is provided with a prepayment device.

D-3—This is a polyphase meter and consists of two elements of the same general design as the type I meter, except that the laminated core is made in two parts; the discs of the two elements are mounted one above the other on a common shaft which operates a single register. Taps are provided on the potential coil of one element so that the effect of the two elements on the discs can be equalized.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY.

D-3—This is a polyphase meter and consists of two elements of the active coil fixed in the meter base; two potential coils mounted on a laminated iron core with two consequent poles over back edge of disc; single current coil mounted on a polar projection of the iron core below the disc; two phasing coils, one on each limb of the iron core, short circuited through a piece of resistance wire; light load adjustment, a coil on one limb of the core short circuited through a piece of resistance wire; one brake magnet over front edge of disc.

Round Type (3-Wire)—This meter is identical in construction with the above, but is provided with a series transformer for use on a three-wire circuit. The transformer is made with two separate primary coils and one five ampere secondary winding; the two primary coils are connected in the two outside mains of the supply circuit, the secondary coil is connected to the current coil of the meter; the potential coil of the meter is connected between the neutral and one of the outside mains.

A (3-Wire, Self Contained)—This meter has an oval cover and separate terminal chamber. No series transformer is required as there are two current coils, of which one is connected in each of the outer mains, the potential coil is connected across the two outer mains; in other respects, the meter is identical with the round type meter.

Round (Polyphase)—Consists of two elements of the same design as the round type with the discs of the two elements mounted one above the other on a common shaft operating a single register. No means provided for equalizing the effect of the two elements on the discs.

A (3-Wire)—This meter is also used in connection with a current transformer. It has a separate terminal chamber, but that structure of the meter proper is the same as that of the round type, except that there are only two secondary windings on the laminated core, these serving both for the power-factor adjustment and for friction compensation. The two outer ends of these coils are connected to the extremities of a small alloy rod; the two outer ends of the windings are joined together and connected to a coil of resistance wire which in turn is connected to a sliding connector, which can be moved along the alloy rod. Changing the resistance of the resistance coil alters the phase displacement between the currents in the current coil and potential coils. The light load adjustment is effected by sliding the connector along the alloy rod.

B—This meter has a round cover and separate terminal chamber, no separate reactive coil, one potential coil mounted on a polar projection from the laminated iron core below the disc, two current coils mounted on polar projections of the core above the disc, phasing coil is an adjustable rectangular loop of copper just over the pole of the potential coil, light load adjustment effected by moving a copper strip in or out of the air gap between the pole on which the potential coil is mounted and a lateral projection of the iron core, two brake magnets arranged thus $\overline{U}\overline{U}$ with front edge of disc in the horizontal gap between the poles.

B (Prepayment)—Same as type B but provided with a prepayment attachment.

C (2-Wire)—This meter is similar in construction to type B, the chief difference being that in the type C meter the current and potential coils are wound on separate iron cores and that the light load adjustment is effected by changing the position of a copper loop around each pole of the core on which the potential circuit is wound.

C (3-Wire)—Same as *C (2-wire)* except that there are two sets of current coil (4 coils), with terminals arranged for connecting one set in each outer main of the three wire system; the potential coil is connected across the outer mains.

U (Polyphase)—Consists of two elements of the same design as type *C (2-wire)* with the discs of the two elements mounted one above the other on a common shaft operating a single register. No means provided for equalizing the effect of the two elements on the discs.

STANLEY INSTRUMENT COMPANY.

G — Rectangular cast iron case; no jewel bearing, the revolving element supported magnetically, the magnetic field for this purpose produced by the brake magnets; four potential coils wound in pairs on two U shaped laminated iron cores placed symmetrically above and below the disc; two current coils on air cores between the poles of the iron cores arranged symmetrically above and below the disc. An iron shield enclosing the entire motor element; small copper plates located in the air gap just above the disc for light load adjustment; a laminated iron bridge located between the poles of each of the shunt magnets proportioned to give the proper lag between the currents in the potential and current coils; a copper band around one-half of each shunt coil to prevent a side thrust on the bearings; two brake magnets with adjustable pole tips.

G (Small Size)—The general design of this meter is similar to the type *G* just described, except that the shielding of the motor element is only partial; the cover of the case is made of sheet metal and a separate permanent magnet is provided for the magnetic suspension scheme; there are U shaped brake magnets with their poles facing each other, the flux being directed through the disc by an adjustable soft iron core.

Jewel Type—This meter has a round base with glass cover, spring supported jewel bearing, an iron shield enclosing motor element, a single horse-shoe brake magnet placed above the disc with the magnetic circuit completed through the iron shield, adjustable iron lugs beneath the disc just opposite the poles of the magnet for varying the air gap; the other parts of the meter are of the same general design as the type *G*.

FORT WAYNE ELECTRIC WORKS.

Type K — This meter has a rectangular base with an irregular shaped cast iron cover; the revolving element is an aluminum cylinder mounted on a steel shaft and rotates between the poles of a permanent brake magnet located in the front of the meter and the poles of a laminated iron core with a vertical air gap located in the back of the meter; just above this core is a laminated iron arm called the "light load adjusting arm," pivoted so that it can be given a slight rotation about an axis coinciding with the shaft of the moving element; the potential coil is located on the upper horizontal limb of the iron core and also embraces the light load adjustment arm; there are two current coils located in the back of the instrument with air cores with their axes perpendicular to the rotating cylinder, and a reactive coil located in the base of the instrument. The proper lag between the currents in the potential coil and current coils is obtained by shunting a coil wound on the light load adjusting arm through resistance coil and a few turns of the impedance coil and also by short circuiting a second coil wound on the core of the potential coil through a second resistance coil.

SANGAMO ELECTRIC COMPANY.

Gutmann — This meter is rectangular in form and has a sheet metal cover. It has a vertical laminated shunt magnet with two air gaps, the larger gap embracing the left-hand edge of the disc, a disc slotted in peculiar spiral curves; a potential coil wound on the back vertical limb of the magnet; there are two current coils with air cores, mounted symmetrically above and below the disc near the main air gap. The proper phase relation between the currents in the potential and current coils is obtained by adjusting the resistance

of a copper loop surrounding the lower limb or bridge of the shunt magnet; friction compensation is effected by adjusting the position of a strip of steel located just above the disc between the shunt and current coils. There is a single brake magnet, the poles of which embrace the right-hand edge of the disc.

SIEMENS-HALSKE ELECTRIC COMPANY OF AMERICA.

Duncan — This meter has a rectangular case with a sheet metal cover. The revolving element is a shaft carrying both a hollow aluminum cylinder and an aluminum disc. The disc is on the lower part of the shaft and revolves between two brake magnets. The driving torque is exerted on the cylinder and is produced by two shunt coils located inside the cylinder and two current coils mounted outside the cylinder on a laminated iron core, the poles of which come close to the cylinder and are in a line at right angles to the axis of the potential coils. The light load adjustment is effected by changing the position of a small iron disc surrounded by a copper ring. This disc is mounted outside the cylinder and so placed that it is normally in line with the axis of the potential coils, but can be moved to either side of this position. Two reactive coils are mounted on the back of the meter; there is no phasing device other than the reactive coils.

PREPAYMENT ATTACHMENT.

As in the case of the prepayment direct current meters no test was made of the prepayment attachment, as this is a purely mechanical device and has no effect on the registration of the meter. Moreover, as the prepayment meters are provided with ordinary indicating dials, if the meter itself registers correctly, a comparison of the dial reading with the number of coins deposited will indicate whether the prepayment device is operating properly.

THEORY.

Like the direct current energy meter, the induction meter is a specially constructed motor generator set, but the motor element instead of being of the commutator type is a particular form of split phase induction motor; the brake system is identical in principle with that of the direct current meter.

The motor element consists essentially of two circuits, the potential circuit and the current circuit; the former has a high reactance and is shunted across the supply mains; the latter has a practically negligible reactance and is connected in series with one of the supply mains. The currents in these two coils will, therefore, differ in phase by approximately 90° , and by properly disposing of these coils with reference to one edge of a flat disc or hollow cylinder a rotating or continually shifting magnetic field cutting the disc or cylinder can be produced. This rotating or shifting field sets up eddy currents in the disc or cylinder and these eddy currents react on the field, thereby giving rise to the necessary torque required to drive the moving element. The disc or cylinder, as a rule, also serves as the armature of the generator element, that is, the brake magnets also embrace the edge of the same disc or cylinder, these, however, being placed as far as possible from the potential and current coils. The Duncan type induction meter has both a disc and a cylinder, the latter forms the armature of the motor element and the former serves as the armature of the generator element.

In order that an induction meter shall register correctly the energy supplied through it at any power-factor, it is essential that the currents in the potential and current coils differ in phase by an angle equal to exactly 90° less the phase angle corresponding to the particular power-factor. In order to secure this condition it is therefore necessary to provide some means aside from the reactance of the potential circuit to produce the correct phase displacement; this is usually done by having a secondary coil wound on the same core as the potential coil and short circuiting this coil through an adjustable resistance, or having the secondary coil so mounted that by shifting its position the current induced in it can be altered. In a properly designed meter this adjustment is practically constant for all power-factors; as a fifty per cent power-factor is about as low as usually arises in practice, this ad-

justment is usually made for a power-factor of this value, although some manufacturers make this adjustment at zero power-factor.

The friction compensation device on an induction meter works on the same general principle as the device used for this purpose in commutator meters, that is, a means is provided for producing a small constant torque independent of the current supplied through the meter. This is usually done by arranging a short circuited loop or coil near the iron core of the potential circuit in such a manner that only a part of the flux due to the potential coil cuts this loop, thus setting up an auxiliary magnetic field cutting the disc, displaced with respect to both time and space with reference to the main field due to the potential coil; a rotating or shifting field of small but constant amplitude is then set up, reacting on the disc and producing the torque required to overcome friction. By shifting the position of the "light load adjustment coil" or by changing the value of the external resistance in series with it, the correct amount of compensation can be obtained.

The construction of the alternating current meters is such that they are much less affected by outside influences, such as changes in temperature, stray magnetic fields, etc., than are the direct current meters. This is in part due to the fact that the disc serves as the armature for both the motor and generator elements, so that a change in temperature of the disc does not alter the ratio between the driving torque and the retarding torque. Also the current in the potential circuit is fixed chiefly by the reactance of this circuit, and not by the resistance, and, as the former is not affected by change in temperature, the change in the potential current, due to temperature changes, is small.

TESTS.

The method used in making these tests has been in general the same as that described in detail in the former report, except that the power supplied through the meter under various conditions was measured directly by means of a Duddell-Mather wattmeter. This meter is constructed entirely without iron and the potential circuit is without appreciable reactance; its accuracy is therefore independent of the phase relation between the voltage and current; it was checked against the secondary standards in the Electrical Testing Laboratories, as were all the other instruments used; these secondary standards had been calibrated by the National Bureau of Standards at Washington. For measuring the voltage a Standard Weston voltmeter was employed, and for the current measurements a potentiometer and standard resistance.

In measuring the starting current and the current required to overcome friction, which currents are quite small, the Duddell-Mather wattmeter was used as an ammeter by applying a known potential difference to the potential circuit of the wattmeter.

In determining the accuracy of registration for various power-factors, two small alternators mounted on the same shaft were used to supply the current and potential circuits of the meters respectively. The field of one of these machines was arranged so that it could be shifted with respect to the field of the second machine; any desired phase displacement of the currents delivered by the two machines could therefrom be obtained. The determination of the accuracy of registration for frequencies other than normal was made by simply altering the speed of the generator to give the frequency desired.

The effect of change of temperature on the accuracy of registration was determined for only one of the types made by each manufacturing company; the differences in the types of any one company are not of a nature to indicate an appreciable variation in this effect.

The maximum error of observation in the results given in the attached test sheets is about three-tenths per cent. In some of the tests a slight shifting of the registration curve was noted, but this was by no means as marked as in the case of the direct current meters; to eliminate errors in comparative readings in such cases, frequent checks were made on the light load and full load registration under normal conditions.

The usual method of testing polyphase meters, and the method adopted in the tests given herewith to determine the effect of varying load, voltage, frequency, etc., is to connect the current coils of the two elements of the meter in series and the two potential circuits in parallel and then to test the meter thus connected on a single phase circuit. This greatly simplifies the work of testing, but these conditions are not equivalent to three phase operation. For example, when the meter is operating single phase at 100% power-factor the currents in the current coils and potential circuits in each element differ in phase by 90° ; when the meter is operating on a three-phase system at 100% power-factor, these currents differ in phase by 60° in one element and 120° in the other. If the power-factor is 50%, the difference in phase between these currents in each element is 30° for single phase operation, as against 0° and 60° for the two elements respectively for three phase operation. The two polyphase meters which in other respects fulfilled the requirements of the specification, were therefore tested on a three-phase system at both 100% and 50% power-factor.

The attached sheets give the details of all the tests.

Respectfully submitted,

CARY T. HUTCHINSON.

December 10, 1908.

CASE No. 1100, HEARING ORDER.

(April 21, 1909.)

Ordered, That a hearing be held by the Public Service Commission for the First District on April 29, 1909, at 3:00 P. M., at the rooms of the Commission, 154 Nassau Street, New York City, for the purpose of determining whether, in order to promote uniform and accurate measurement of electric current supplied to customers by electrical corporations within the First District, an order should be issued by the Commission, containing substantially the provisions set out in the draft hereto annexed.

Ordered, further, that a copy of this order, with the draft annexed, be served on all the electrical corporations within this district at least four days before the date fixed for hearing.

HEARING ORDER

AS TO

CERTAIN TYPES OF ELECTRIC CURRENT ENERGY METERS PROPOSED TO BE CERTIFIED AS CONFORMING TO THE SPECIFICATIONS FOR SUCH METERS ADOPTED BY THE PUBLIC SERVICE COMMISSION FOR THE FIRST DISTRICT, 1909.

Section 1. The following types of Electric Current Energy Meters, which are identified by the cuts and the printed description annexed to and made part of this order, are hereby certified by the Public Service Commission for the First District as conforming to the specifications for Electric Current Energy Meters adopted by the Public Service Commission on April 21, 1909:

I.—DIRECT CURRENT METERS.

GENERAL ELECTRIC COMPANY:

Type.

Class I—

F-N	Two wire.
Q-3	Three wire.
D-E-N	Two wire.
J-N(J-3)	Two wire.
D-N(D-3)	Two wire.
J-1	Two wire.
D-1	Three wire.
J-2	Three wire.
D-2	Three wire.

I.—DIRECT CURRENT METERS — *Continued.*
 GENERAL ELECTRIC COMPANY — *Continued.*

	Type.	
<i>Class II—</i>	E-G	Two wire.
	G-2	Two wire.
<i>Class III—</i>	C-Y	Three wire.
	C-X	Two wire.
<i>Class IV—</i>	C-5	Two wire.
	C-Z-6	Two wire.
	C-X-6	Two wire.
	C-P	Two wire.

II.—ALTERNATING CURRENT METERS.

(1) GENERAL ELECTRIC COMPANY.

Type I.
 Type I P-2.
 Type D-3.

(2) WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY.

Round Type — two wire.
 Type A — three wire, self contained.
 Type A — three wire, with current transformer.
 Type B — two wire.
 Type B — two wire, prepayment.
 Type C — two wire.
 Type C — three wire.

(3) STANLEY INSTRUMENT COMPANY.

Type G — 2d form.
 Jewel type.

(4) FORT WAYNE ELECTRIC WORKS.

Type K.

A hearing was held April 29th.

In the Matter
 of
 Certifying Types of ELECTRIC CURRENT
 ENERGY METERS.

Case No. 1100,
 Resolution Certifying
 Types of Electric Cur-
 rent Energy Meters.
 June 25, 1909.

Resolved: That the following types of electric current energy meters, which are identified by the cuts on file and the description annexed to this resolution, are hereby certified by the Public Service Commission for the First District as conforming to the specifications for electric current energy meters adopted by the Public Service Commission on June 25, 1909:

I.—DIRECT CURRENT METERS.

GENERAL ELECTRIC COMPANY:

Class 1.

Type F N — two wire.
 Type Q 3 — three wire.
 Type D E N — two wire.
 Type J N (J 3) — two wire.

GENERAL ELECTRIC COMPANY — Continued.

Class 1 — Continued.

- Type D N (D 3)—two wire.
- Type J 1—two wire.
- Type D 1—three wire.
- Type J 2—three wire.
- Type D 2—three wire.
- Type E G—two wire.
- Type G 2—two wire.

Class 2.

- Type C Y—three wire.
- Type C X—two wire.
- Type C 5—two wire.
- Type C Z 6—two wire.
- Type C X 6—two wire.
- Type C P—two wire.

II.—ALTERNATING CURRENT METERS.

A. Single Phase.

GENERAL ELECTRIC COMPANY:

- Type I.
- Type I P 2.
- Type D F 2.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY:

- Type A—three wire, with current transformer.
- Type A—three wire, self contained.
- Type B—two wire.
- Type B—two wire, prepayment.
- Type C—two wire.
- Type C—three wire.
- Round type—two wire.
- Round type—three wire.

FORT WAYNE ELECTRIC WORKS:

- Type K.

B. Polyphase.

GENERAL ELECTRIC COMPANY:

- Type D 3.
- Type D F 2—P P.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY:

- Round type.
- Type C.

DESCRIPTION OF ELECTRIC RECORDING METERS.

I.—DIRECT CURRENT METERS.

Class 1 — T. R. W. Meters.

The following general description applies to the types of meters enumerated below:

General Electric Co.....	Type	F N	2 wire
" " ".....	"	Q 3	3 "
" " ".....	"	D E N	2 "
" " ".....	"	J N (J 3)	2 "
" " ".....	"	D N (D 3)	2 "
" " ".....	"	J 1	2 "
" " ".....	"	D 1	3 "
" " ".....	"	J 2	3 "
" " ".....	"	D 2	3 "
" " ".....	"	E G	2 "
" " ".....	"	G 2	2 "

GENERAL CHARACTERISTICS.

The base and back are cast in one piece, consisting of either white metal, brass, aluminum or iron, finished in black japan or lacquer, and provided with bosses on which the magnets are mounted.

The frame is cast in one piece and consists of one of the above mentioned metals; it is supported by the base and in turn supports the top bearing, brushes, fields and register.

The register is either direct or non-direct reading, having five dials.

The dial faces are tin or silver plated.

Two or three magnets are used and are adjustable, being mounted on cast brass shoes.

The field coils are covered with white tape and shellacked or black tape unshellacked; they are held in place by two brass straps or shoes being spaced with brass clamps at the top.

The armature is wound on a red fibre form, there being two distinct classes of high and low efficiency, respectively.

The commutator has eight or sixteen silver bars which are insulated from each other by air gaps and from the shaft with fibre.

The disk is of copper or aluminum.

The lower or jewel bearing is of sapphire or diamond set into a threaded screw which is locked in position with a lock nut. The top bearing is of brass, threaded, and held in position with a check nut, or plain having a set screw.

The brush brackets are cast of brass.

The brushes are of the spring contact type having silver contact faces and are insulated from the bracket with fibre and mica.

Potential leads are insulated with soft rubber tubing or cotton sleeve.

The shunt coils are adjustable.

The potential resistance is mounted in an envelope at the back of the meter or in a cage external to the meter.

The holes in the base for the leading-in wires are insulated with fibre and sheet rubber.

Full load adjustment is made with the retarding magnets, which are moved in to increase the speed of the disk and moved out toward the edge of the disk to decrease the speed. Light load adjustment is made with the adjustable shunt; moving it toward the armature increases the speed of the disk, and moving it away decreases the speed at light load.

INDIVIDUAL CHARACTERISTICS.

Type F N—Cuts No. 1 and No. 1a.

Three magnets—non-direct reading dial—high efficiency armature.

Type Q 3—Cuts No. 2 and No. 2a.

Rectangular back supporting all meter parts—two magnets—side connections—non-direct reading dial—cover guards jewel screw and magnet screws—binding posts on porcelain blocks.

Type D E N—Cuts No. 3 and No. 3a.

Three magnets—high efficiency armature—resistance in external cage—extension base—series connections made to lugs sweated to flexible cable, which in turn are sweated to lugs on meter—back connected fields.

Type J N (J 3)—Cuts No. 4 and No. 4a.

High efficiency armature—binding posts made from punchings of brass—bases provided with two stiffening ribs.

Type D N (D 3)—Cuts No. 5 and No. 5a.

Three magnets—high efficiency armature—no insulated binding post guards—reinforced from base to back.

Type J 1—Cuts No. 6 and No. 6a.

Non-direct reading dial—two magnets—jewel and magnet guard.

Type D 1—Cuts No. 7 and No. 7a.

Three magnets—high efficiency armature—insulated binding post guards—base casting reinforced from base to back.

Type J 2—Cuts No. 8 and No. 8a.

Field coils wound with black tape—aluminum disk—aluminum alloy base and frame—direct reading register in watt hours—constant marked on disk—adjustable shunt—improved cast binding posts—two magnets placed parallel to fields—a sheet metal guard placed under base of meter.

Type D 2—Cuts No. 9 and No. 9a.

Three magnets—guide block for binding post—direct reading dial—aluminum disk—high efficiency armature.

ASTATIC TYPES.

Type E G—Cuts No. 10 and 10a.

Copper disk—three magnets—two armatures—field coil consists of two turns opposite the lower armature—one 16 bar commutator—two shunt coils mounted on top of field coils opposite upper armature.

Type G 2—Cuts No. 11 and No. 11a.

Two aluminum disks one above the other with two magnets for each disk placed parallel to the back of the case, one magnet with its pole to the right, the other to the left. The field "coil" is a single horizontal copper bar between two heavy copper terminals; the shaft of the instrument passes through this bar, one armature being above, the other below the bar. The two shunt coils are placed on opposite sides of the upper armature.

Class 2.

The following general description applies to the types of meters enumerated below:

General Electric Co.....	Type C Y	3 wire
" " "	" C X	2 "
" " "	" C 5	2 "
" " "	" C Z 6	2 "
" " "	" C X 6	2 "
" " "	" C P	2 "

GENERAL CHARACTERISTICS.

The back of this meter is of white metal to which the frame is secured. The frame is in two parts and made from aluminum alloy. It supports the various internal parts of the meter.

A large four dial register reading direct in kw. hours is used. One complete revolution of the most rapidly moving hand equals 10 kw. hours. The register is supported from a small casting, which in turn is fastened to, but insulated from, the meter frame.

There are four permanent magnets mounted astatically in sets of two. They are supported on a shelf which is part of the meter frame.

The field coils are step-wound and circular in shape. The windings of the field coils are situated parallel to the meter back.

The armature is spherical in shape, the first design being self-supporting; but the armatures of later design are wound upon a spherical paper core and are enclosed by the field coils.

The diameter of the commutator is much smaller than that of the preceding forms. The shaft is a hollow steel tube, containing a removable pivot on one end and a bronze top bearing pivot and worm on the other.

The lower jewel bearing has an automatic locking rim which when released raises the disk and locks same against the top poles of the magnet.

The brushes are the gravity controlled type, the tension being equalized by means of counter weights.

The adjustable shunt field coil is circular in shape, and adjustment is made by moving it along a supporting stud or swinging it up or down, in a direction toward the armature to increase the speed of the meter disk.

The resistance in series with the armature circuit is wound on a cylindrical paper tube and mounted on meter back directly behind the fields.

The worm wheel is made as a separate part from the register and is supported by a bracket on the meter frame. On the end of the shaft carrying the worm there is mounted a pointer wheel which engages with a dog on the register, thus permitting the movement of the meter shaft to be transmitted to the register.

INDIVIDUAL CHARACTERISTICS.

Type C Y—Cuts No. 12 and No. 12a.

Pressed metal back.

Type C X—Cuts No. 13 and No. 13a.

Same as Type C Y with the exception that it is built in capacities of 150 amperes and over.

Type C 5—Cuts No. 14 and No. 14a.

Same as Type C X 6, except that it has a glass cover and is back connected.

Type C Z 6—Cuts No. 15 and No. 15a.

A modified and improved mechanical design of the Type C meter. The frame is of one piece instead of two. The resistance is combined with the adjustable shunt field coil. The adjustment of this shunt coil is made by moving the coil up or down in a plane parallel to the series field coil.

Type C X 6—Cuts No. 16 and 16a.

Register is not direct reading, it being necessary to multiply the indications by a constant of 10 or a multiple of 10, which is marked on the dial face. The series connections to the meter are made to lugs which are sweated to flexible cables projecting from the sides of the meter.

Type C P—Cuts No. 17 and No. 17a.

This type is identical with that of C Z 6 with the exception of the prepayment device.

II. ALTERNATING CURRENT METERS.

A.—Single Phase Meters.

General Electric Co.....	Type I
“ “ “	“ I P 2
“ “ “	“ D F 2
Westinghouse Co.....	“ A 3 wire
“ “	“ A self contained
“ “	“ B 2 wire
“ “	“ B prepayment
“ “	“ C 2 wire
“ “	“ C 3 wire
“ “	“ Round 2 wire
“ “	“ Round 3 wire
Fort Wayne.....	“ K

G. E. Co., Type I—Cuts No. 30 and No. 30a.

The earlier meters of this type employed a cast iron back and an aluminum cover. Later the cover was made from sheet metal, and following this a sheet metal punched back was employed.

The frame is of cast white metal and supports the various internal parts of the meter.

The register is direct reading, has four dials and is identical with the registers employed on the Type C meters for direct current.

There are two magnets arranged astatically and placed parallel to the meter back.

The field coils are wound upon a laminated iron yoke, which is held in place on the frame by two screws.

The moving element consists of an aluminum disk mounted on a bronze shaft; the lower end of the shaft carries a removable pivot.

The top bearing is of brass set in through the frame. The bottom bearing is a jewel set in a threaded brass screw and held tight by a lock nut. This meter is provided with a locking device, which is so arranged that by backing out the jewel screw a few turns it lifts the supporting ring, thus raising the moving element from the jewel and placing the disk against the top poles of the magnets and holding it firmly in this position.

The potential pole is a single one held in position by the insulated frame. Potential circuit is provided with a so-called testing loop which permits connecting the potential circuit to a separate source of electrical supply.

Full load adjustment is made with the retarding magnets; moving them in from the edge of the disk increases the speed, moving them out toward the edge of the disk decreases the speed. The light load friction compensating device comprises a small rectangular conductor mounted directly above the disk and encircling the potential pole.

Adjustment is secured by means of a small lever arm mounted vertically on the frame of the meter.

At the top of the meter, back of the dial, is a soldered connection by means of which adjustment for frequency may be made.

G. E. Co., Type I P 2—Cuts No. 31 and No. 31a.

This meter is identical with the Type I meter except for the addition of a prepayment device. The prepayment device may be self-contained in the meter or external. The self-contained prepayment device is mechanical in its operation, while the external one is electrical.

G. E. Co., Type D F 2—Cuts No. 32 and 32a.

The back and base are cast in iron and support the various parts of the meter.

The register is the same as used on the old style T. R. W. meters, being non-direct reading.

There are two magnets held in position on the base with brass shoes.

There are two field coils located directly under the back edge of the disk, while the potential coil is directly above them over the disk.

The moving element consists of an aluminum disk mounted on a steel shaft.

It has a brass top bearing and jeweled lower bearing, same as old style T. R. W. meters.

The magnet adjustment for full load is the same as on T. R. W. meters.

Light load adjustment is by means of a small coil wound on an iron core which overlaps the disk. Moving it in decreases the speed of the meter at light load.

Power-factor adjustment is made with a coil wound around the potential coil.

W. E. & M. Co., Type A (with current transformer)—Cuts No. 40 and No. 40a.

This meter has an iron frame. All of the parts both stationary and movable are attached to the back and lower frame of the meter.

The register is of the direct reading type and records in either .1 or .1 kw. hours. The five dials are on a face of white enamel.

There is only one magnet used in this type of meter, and it is carried on a slotted projection from the base of the frame.

The field coils are covered with white tape and are well shellacked; they are form-wound and are placed on an iron core that projects from the base or frame. They have a capacity of only five amperes. For greater capacities they are connected to an external series current transformer.

The shunt coil consists of a large number of turns of fine copper wire wound over a laminated yoke. In this particular type of meter the coil is connected in series with an impedance coil made up of a large number of turns of fine copper wire wound over an iron core. This impedance coil is insulated from the base and held in position by a clamp.

The moving element consists of an aluminum disk mounted on a vertical steel shaft.

This type of meter has a shaft with a round end that rotates in a cup-shaped sapphire jewel, this jewel being held in position by means of a lock nut. The bearings in many of these meters have been replaced by ball bearing jewels.

The speed of these meters at full load is controlled by permanent magnets. Moving these magnets toward the center of the disk decreases the speed, while moving them in the opposite direction causes an increase in speed. This is directly opposite to the effect produced in the B and C types. No provision was made for adjusting at light load in the earlier forms of this meter; this, however, can be effected by placing small binders of wire around the laminated yoke, over which the potential coil is wound. In the late meters of this type light load adjustment is provided for by means of an extra coil wound over the potential coil and connected to a brass bar just below the disk. In the center of this winding a tap is taken off and carried to a screw which is attached to a brass bar; by sliding the screw to the left the speed is increased and by sliding it to the right it is decreased.

W. E. & M. Co., Type A (self-contained)—Cuts No. 41 and No. 41a.

This meter is identical with Type A with the exception that it has an internal field capacity of 10 amp. and over.

W. E. & M. Co., Type B—Cuts No. 42 and No. 42a.

The case of this meter is of iron with the terminals brought to a terminal box at the top of the meter; the covers are of glass or aluminum, or of a composition. A rubber gasket is interposed between the cover and base to keep out moisture.

The registering mechanism is connected to a shaft by a train of gears which are actuated by the moving element. The clocks are all gold plated and read directly in either .1 or .1 kw. hours.

There are two magnets set in front of the meter rigidly connected by a brass yoke, which in turn is attached to the frame.

The field coils consist of a few turns of copper wire wound around an iron core which is attached to the base.

The shunt coil consists of a large number of turns of fine wire wound around a laminated iron core; in this type of meter there is a complete circuit of iron and these coils are wound on projecting pole pieces.

The moving element consists of a corrugated aluminum disk mounted on a brass shaft midway between the coils and the magnet poles; the disk is corrugated in order to give it greater mechanical strength and to minimize the effect that a short circuit would produce.

The upper end of the shaft that carries the moving element is hollowed out and a pinion that is screwed directly through the frame is sunk into it. This hole contains small disks of billiard cloth saturated with oil which lubricates the bearing. The lower bearing consists of two highly polished and cupped sapphire jewels; in the hollow space formed by this cupping is placed a small steel ball 1/16" in diameter; the upper jewel is attached to the shaft, while the lower one is screwed through meter frame and held in

position by a lock nut; as the moving element revolves the position of the steel ball also changes, thus presenting a different surface to the jewels and increasing the length of life of bearing.

Full load adjustment is accomplished by the moving of the brake magnets; moving toward the center increases and moving toward the edge of disk decreases the speed. Light load adjustment is accomplished by means of a copper loop which, when moved through the magnetic flux, either increases or decreases the speed; the aim of this device is to compensate for initial friction.

The lag adjustment of this meter is mechanical and consists of a copper strip which is placed directly over the potential coil and under the disk; by moving the strip back or forth the lines of force threading through the disk are changed and the magnetic relation of shunt and series fields is varied. The shunt and series fields of this meter are connected in quadrature.

W. E. & M. Co., Type B Prepayment—Cuts No. 43 and No. 43a.

This is the same as Type B, except for self-contained prepayment device.

W. E. & M. Co., Type C—Cuts No. 44 and No. 44a and No. 45 and No. 45a.

The mechanical construction and principle of operation of this meter is almost identical with that of Type B with the exception of the light load adjustment, which employs two loops cutting lines of force emanating from the iron core on which the shunt coil is wound. This gives a much greater range of adjustment on light load. One style of meter is for use in two-wire circuits and one in three-wire.

W. E. & M. Co., Type Round (2 wire)—Cuts No. 46 and 46a.

Principle, operation and adjustment same as stated for Type A.

W. E. & M. Co., Type Round (3 wire)—Cuts No. 47 and No. 47a.

Principle, operation and adjustment same as stated for Type A.

Fort Wayne Type K—Cuts No. 60 and No. 60a.

The frame and cover of this meter are of iron. The cover sets into a depression in the base, which is lined with felt.

The register is direct reading, with a porcelain face, on which are five dials. The train is operated by a worm gear directly from shaft.

There may be either one or two magnets which overlap the disk.

The field coils are wound without any iron in the core and are clamped together by means of brass clamps which are screwed into the base. The potential coil consists of a starting coil which is set inside of the disk. This coil is connected in series with an impedance coil located in the base of the meter.

The moving element consists of a cylindrical cup of aluminum rigidly connected to a steel shaft.

The shaft has a rounded end which rests on a cupped sapphire jewel; this is held in position by a lock nut. The upper bearing is hollow and holds the end of the shaft.

Full load adjustment is effected by means of the permanent magnet; moving it upward decreases the speed and moving it downward increases the speed. Light load adjustment is effected by turning a screw which moves a coil back and forth in the main potential coil.

When a magnetic balance is obtained in this manner the shunt and field coils are then in quadrature.

The changes for frequency and lag are both made with an electrical adjustment, the taps being brought out from the impedance coil. The change in lag is accomplished by inserting a resistance of German silver wire in the coil at the left. The frequency change is accomplished with the coil on the right hand side of the meter. If switch is closed it is then adjusted for 60 cycles, if open, for 133 cycles.

B.—Polyphase Meters.

General Electric Co.....	Type D 3
“ “ “	“ D F 2 P P
Westinghouse Co.....	“ Round
“ “	“ C

G. E. Co., Type D 3—Cuts No. 70 and No. 70a.

The meters of this type employ a cast iron back and an aluminum cover. Later the cover was made from sheet metal.

The frame is of cast white metal and supports the various internal parts of the meter.

The register is direct reading and has four dials and is identical with the registers employed on the Type C meters for direct current.

There are four magnets arranged astatically and placed parallel to the meter back.

The field coils are wound upon laminated iron yokes which are held in place on the frame by two screws.

The moving element consists of two aluminum disks mounted on a bronze shaft, the lower end of which carries a removable pivot.

The top bearing is of brass set in through the frame. The bottom bearing is a jewel set in a threaded brass screw and held tight by a lock nut. This meter is provided with a locking device which is so arranged that by backing out the jewel screw a few turns it lifts the supporting ring, thus raising the moving element from the jewel and placing the disk against the top poles of the magnets and holding it firmly in this position.

The potential poles are held in position by the insulated frame. The potential circuits are provided with so-called testing loops which permit connecting the potential circuits to a separate source of electrical supply.

Full load adjustment is made with the retarding magnets; moving them in from the edge of the disk increases the speed, moving them out toward the edge of the disk decreases the speed. The light load friction compensating device comprises a small rectangular conductor mounted directly above the disk and encircling the potential pole.

Adjustment is secured by means of a small lever arm mounted vertically on the frame of the meter.

At the top of the meter, back of the dial, is a soldered connection by means of which adjustment for frequency may be made.

The fields are balanced by means of two field balancing loops, one being located directly under each disk.

G. E. Co., Type D F 2 P P—Cuts No. 71 and No. 71a.

The back and base are of one piece of cast brass.

The register is of the direct reading type with five dials.

Two magnets are employed, held in position by brass clamps which are fastened to brass studs which are in turn held by screws and lock nuts to the meter base.

The field coils are four in number, two per phase, and are held in position by brass clamps fastened to studs which in turn are fastened to the base. The field coils for one phase have a frontal position on the base while the coils for the other phase have a backward position on the base.

The moving element consists of a single aluminum disk, large in diameter, mounted on a shaft.

The bearings, etc., are identical with those employed on the T. R. W. meter.

Full load adjustment is made either with the retarding magnets or by moving the potential coils; moving them in toward the shaft increases the speed of the disk. The magnet adjustment is the same as for T. R. W. meters.

Light load adjustment is made by moving the potential coils parallel to the meter back.

Power factor adjustment is made by varying the resistance of the lag coils which are wound over the potential coils.

There is a potential pole for each phase arranged respectively at the front and back of the meter base. Two reactive coils, one for each phase, are mounted in the top and each connected in series with its proper potential coil. An iron wire is mounted vertically near the hub of the disk to eliminate the possibility of creeping.

W. E. & M. Co., Type Round—Cuts No. 80 and No. 80a.

This meter has an iron frame. All of the parts, both stationary and movable, are attached to the back and lower frame.

The register is of the direct reading type and records in either .1 or 1. kw. hours. The five dials are on a white enamel face.

There are only two magnets used in this type of meter and they are carried on slotted projections from the base.

The field coils are covered with white tape and are well shellacked; they are form wound and are placed on an iron core that projects from the base or frame.

The shunt coils consist of a large number of turns of fine copper wire wound over laminated yokes. In this particular type of meter the coils are connected in series with impedance coils made up of a large number of turns of fine copper wire wound on an iron core. The impedance coils are insulated from the base and held in position by clamps.

The moving element consists of two aluminum disks mounted on a vertical steel shaft.

The first form of this meter had a shaft with a round end that rested in a cupped sapphire jewel, this jewel being held in position by means of a lock nut. Many of these meters have since been equipped with ball bearings.

The speed of these meters at full load is controlled by permanent magnets; moving these magnets toward the center of the disk causes the meter to decrease in speed, while moving them in the opposite direction causes an increase in speed. This is directly opposite to the effect produced in the B and C types. No provision was made for adjusting at light load in the earlier forms of this meter, but it can be effected by placing small binders of wire around the laminated yoke, over which the potential coil is wound.

In the later meters of this type light load adjustment is provided for by means of an extra coil wound over the potential coil and connected to a brass bar just below the disk; in the center of this winding a tap is taken off and carried to a screw which is attached to the brass bar. By sliding the screw to the left the speed is increased and by sliding it to the right it is decreased.

W. E. & M. Co., Type C—Cuts No. 81 and No. 81a.

The case of this meter is of iron and the terminals are brought to a terminal box at the side. A rubber gasket is interposed between the cover and base to keep out moisture.

The registering mechanism is connected to the shaft by a train of gears which are actuated by the moving element. The clocks are all gold plated and read directly in .1 or 1. kw. hours.

There are four magnets set in front of the meter, rigidly connected by a brass yoke, which in turn is attached to the frame.

The field coils consist of a few turns of copper wire wound around an iron core which is attached to the base.

The potential coils consist of a large number of turns of fine wire wound around a laminated iron pole. In this type of meter there is a complete circuit of iron and these coils are wound on projecting pole pieces.

The moving element consists of two corrugated aluminum disks mounted on a brass shaft midway between the coils and the magnet poles. The disk is corrugated in order to give it greater mechanical strength and to minimize the effect that a short circuit would produce.

The upper end of the shaft that carries the moving element is hollowed out and a pinion that is screwed directly through the frame is sunk into it.

This hole contains small disks of billiard cloth saturated with oil to lubricate the bearing.

The lower bearing consists of two highly polished and cupped sapphire jewels. In the hollow space formed by this cupping is placed a small steel ball 1/16-inch in diameter. The upper jewel is attached to the shaft, while the lower one is screwed through the frame and held in position by a lock nut. As the moving element revolves the position of the steel ball also changes thus presenting a different surface to the jewels and increasing the length of life of the bearings.

Full load adjustment is accomplished by moving the brake magnets; moving toward the center increases and moving toward the edge of the disk decreases the speed. Light load adjustment is accomplished by means of a copper loop which, when moved through the magnetic flux, either increases or decreases the speed. The aim of this device is to compensate for initial friction.

The lag adjustment of this meter is mechanical and consists of a copper strip which is placed directly over the potential coil and under the disk. By moving the strip back or forth the lines of force threading through the disk are changed and the magnetic relation of shunt and series fields is varied. Both the shunt and series field of this meter are connected in quadrature.

<p style="text-align: center;">In the Matter of Certifying Types of ELECTRIC CURRENT ENERGY METERS.</p>	<p>Case No. 1100, Amendatory Resolution Certifying Types of Electric Current En- ergy Meters. October 26, 1910.</p>
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Whereas, By resolution adopted June 25, 1909, this Commission certified certain types of electric current energy meters as conforming to specifications for electric current energy meters adopted by the Public Service Commission for the First District on June 25, 1909; and

Whereas, It is now desired to certify certain additional types of meters and to make other changes;

Resolved, That in place of the types of electric current energy meters certified by resolution of June 25, 1909, the following types of electric current energy meters which are identified by the cuts on file and the descriptions annexed to this resolution, be and the same hereby are certified by the Public Service Commission for the First District as conforming to the specifications for electric current energy meters adopted by the Public Service Commission for the First District on June 25, 1909:

L—DIRECT CURRENT METERS.

GENERAL ELECTRIC COMPANY:

Class 1.

Type F N — two wire.
Type F N — three wire.
Type Q 3 — three wire.
Type D E N — two wire.
Type J N — two wire.
Type J 3 — three wire.
Type D N — two wire.
Type D 3 — three wire.
Type J 1 — two wire.
Type J 1 — three wire.
Type D 1 — two wire.
Type D 1 — three wire.
Type J 2 — two wire.
Type J 2 — three wire.
Type D 2 — two wire.
Type D 2 — three wire.
Type E G — two wire.
Type G 2 — two wire.

GENERAL ELECTRIC COMPANY — *Continued.**Class 2.*

Type C — two wire.
 Type C — three wire.
 Type C Y — three wire.
 Type C X — two wire.
 Type C 5 — two wire.
 Type C 5 — three wire.
 Type C 6 — two wire.
 Type C 6 — three wire.
 Type C Z 6 — two wire.
 Type C X 6 — two wire.
 Type C P — two wire.
 Type C P — three wire.
 Type C P 2 — two wire.
 Type C P 3 — two wire.

II.— ALTERNATING CURRENT METERS.

A. Single Phase.

GENERAL ELECTRIC COMPANY:

Type I — two wire.
 Type I — three wire.
 Type I S — two wire.
 Type I P — two wire.
 Type I P — three wire.
 Type I P 2 — two wire.
 Type I P 2 — three wire.
 Type D F 2 — two wire.
 Type D F 2 — three wire.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY:

Type A — two wire, with current transformer.
 Type A — three wire, with current transformer.
 Type A — two wire, self contained.
 Type A — three wire, self contained.
 Type B — two wire.
 Type B — three wire.
 Type B — two wire, prepayment.
 Type B — three wire, prepayment.
 Type C — two wire.
 Type C — three wire.
 Type C D — two wire.
 Type C D — three wire.
 Type C E — two wire.
 Type C E — three wire.
 Type Round — two wire.
 Type Round — three wire.

FORT WAYNE ELECTRIC WORKS:

Type K — two wire.
 Type K — three wire.

B. Polyphase.

GENERAL ELECTRIC COMPANY:

Type D 3 — two phase.
 Type D 3 — three phase.
 Type D F 2 — P P — two phase.
 Type D F 2 — P P — three phase.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY:

- Type Round — two phase.
- Type Round — three phase.
- Type C — two phase.
- Type C — three phase.
- Type C A — two phase.
- Type C A — three phase.

DESCRIPTION OF ELECTRIC RECORDING METERS.

I. DIRECT CURRENT METERS.

Class 1 — T. R. W. Meters.

The following general description applies to the types of meters enumerated below:

General Electric Co.....	Type	F N	2 wire
" " "	"	F N	3 "
" " "	"	Q 3	3 "
" " "	"	D E N	2 "
" " "	"	J N	2 "
" " "	"	J 3	3 "
" " "	"	D N	2 "
" " "	"	D 3	3 "
" " "	"	J 1	2 "
" " "	"	J 1	3 "
" " "	"	D 1	2 "
" " "	"	D 1	3 "
" " "	"	J 2	2 "
" " "	"	J 2	3 "
" " "	"	D 2	2 "
" " "	"	D 2	3 "
" " "	"	E G	2 "
" " "	"	G 2	2 "

GENERAL CHARACTERISTICS.

The base and back are cast in one piece, consisting of either white metal, brass, aluminum or iron, finished in black japan or lacquer, and provided with bosses on which the magnets are mounted.

The frame is cast in one piece and consists of one of the above mentioned metals; it is supported by the base and in turn supports the top bearing, brushes, fields and register.

The register is either direct or non-direct reading, having five dials.

The dial faces are tin or silver plated.

Two or three magnets are used and are adjustable, being mounted on cast brass shoes.

The field coils are covered with white tape and shellacked or black tape. unshellacked; they are held in place by two brass straps or shoes being spaced with brass clamps at the top.

The armature is wound on a red fibre form, there being two distinct classes of high and low efficiency, respectively.

The commutator has eight or sixteen silver bars which are insulated from each other by air gaps and from the shaft with fibre.

The disk is of copper or aluminum.

The lower or jewel bearing is of sapphire or diamond set into a threaded screw which is locked in position with a lock nut.

The top bearing is of brass, threaded, and is held in position with a check nut, or plain having a set screw.

The brush brackets are cast of brass.

The brushes are of the spring contact type having silver contact faces and are insulated from the bracket with fibre and mica.

Potential leads are insulated with soft rubber tubing or cotton sleeve.

The shunt coils are adjustable.

The potential resistance is mounted in an envelope at the back of the meter or in a cage external to the meter.

The holes in the base for the leading-in wires are insulated with fibre and sheet rubber.

Full load adjustment is made with the retarding magnets, which are moved in to increase the speed of the disk and moved out toward the edge of the disk to decrease the speed. Light load adjustment is made with the adjustable shunt; moving it toward the armature increases the speed of the disk, and moving it away decreases the speed at light load.

INDIVIDUAL CHARACTERISTICS.

Type F N.

Two wire—Cuts No. 1 and No. 1a.

Three wire—Cuts No. 2 and No. 2a.

Three magnets—non-direct reading dial—high efficiency armature—adjustable shunt.

Type Q 3.

Three wire—Cuts No. 3 and 3a.

Rectangular back supporting all meter parts—two magnets—side connections—non-direct reading dial—cover guards jewel screw and magnet screws—adjustable shunt—binding posts on porcelain blocks, which are arranged with special testing connections.

Type D E N.

Two wire—Cuts No. 4 and No. 4a.

Three magnets—high efficiency armature—resistance in external cage—extension base—adjustable shunt.

Type J N.

Two wire—Cuts No. 5 and No. 5a.

High efficiency armature—binding posts made from punchings of brass—base provided with two stiffening ribs—adjustable shunt.

Type J. 3.

Three wire—Cuts No. 6 and No. 6a.

Same as Type J N—two wire, except as to terminal connections.

Type D N.

Two wire—Cuts No. 7 and No. 7a.

Three magnets—high efficiency armature—no insulated binding post guards—reinforced from base to back—adjustable shunt.

Type D. 3.

Three wire—Cuts No. 8 and No. 8a.

Same as Type D N—two wire, except as to terminal connections.

Type J 1.

Two wire—Cuts No. 9 and No. 9a.

Three wire—Cuts No. 10 and No. 10a.

Non-direct reading dial—two magnets—jewel and magnet guard—adjustable shunt.

Type D 1.

Two wire—Cuts No. 11 and No. 11a.
Three wire—Cuts No. 12 and No. 12a.

Non-direct reading dial—three magnets—high efficiency armature—insulated binding post guards—base casting reinforced from base to back—adjustable shunt.

Type J 2.

Two wire—Cuts No. 13 and No. 13a.
Three wire—Cuts No. 14 and No. 14a.

Field coils wound with black tape—aluminum disk—aluminum alloy base and frame—direct reading dial—test constant marked on disk—adjustable shunt—improved cast binding post—two magnets placed parallel to field—sheet metal guard placed under base.

Type D 2.

Two wire—Cuts No. 15 and No. 15a.
Three wire—Cuts No. 16 and No. 16a.

Three magnets—guide block for binding posts—direct reading dial—aluminum disk with test constant marked on it—high efficiency armature—adjustable shunt.

ASTATIC TYPES.

Type E G.

Two wire—Cuts No. 17 and No. 17a.

Copper disk—three magnets—two armatures—field coil consists of two turns opposite the lower armature—one 16-bar commutator—two adjustable shunts mounted on top of field coils—external potential resistance.

Type G 2.

Two wire—Cuts No. 18 and No. 18a.

Two aluminum disks, one above the other, with two magnets for each disk placed parallel to the back of the case, one magnet with its pole to the right, the other to the left. The field "coil" is a single horizontal copper bar between two heavy copper terminals: the shaft of the instrument passes through this bar, one armature being above, the other below the bar. The two adjustable shunts are placed on opposite sides of the upper armature. External potential resistance.

Class 2.

The following general description applies to the types of meters enumerated below:

General Electric Co.....	Type C	2 wire
" " "	" C	3 "
" " "	" C Y	3 "
" " "	" C X	2 "
" " "	" C 5	2 "
" " "	" C 5	3 "
" " "	" C 6	2 "
" " "	" C 6	3 "
" " "	" C Z 6	2 "
" " "	" C X 6	2 "
" " "	" C P	2 "
" " "	" C P	3 "
" " "	" C P 2	2 "
" " "	" C P 3	2 "

GENERAL CHARACTERISTICS.

The back of this meter is of white metal to which the frame is secured. The frame is in two parts and made from aluminum alloy. It supports the various internal parts of the meter.

A large four dial register reading direct in watt or kilowatt hours is used. The register is supported from a small casting, which in turn is fastened to, but insulated from, the meter frame.

There are four permanent magnets mounted astatically in sets of two. They are supported on a shelf which is part of the meter frame.

The field coils are circular in shape. The windings of the field coils are situated parallel to the meter back.

The armature is spherical in shape, the first design being self-supporting; but the armatures of later design are wound upon a spherical paper core, in both designs being enclosed by field coils.

The diameter of the commutator is much smaller than that of the preceding forms. The shaft is a hollow steel tube containing a removable pivot on one end and a bronze top bearing pivot and worm on the other.

The lower jewel bearing has an automatic locking rim which when released raises the disk and locks same against the top poles of the magnet.

The brushes are the gravity controlled type, the tension being equalized by means of counter weights.

The adjustable shunt field coil is circular in shape, and light load adjustment is made by moving it along a supporting stud or swinging it up or down, in a direction toward the armature to increase the speed of the disk, and away from the armature to decrease the speed.

Full load adjustment is effected by moving the brake magnets toward or away from the center of the disk. Moving the magnets in increases the speed and moving them out decreases the speed.

The resistance in series with the armature circuit is wound on a cylindrical paper tube and mounted on meter back directly behind the fields, or contained in the adjustable shunt.

The worm wheel is made as a separate part from the register and is supported by a bracket on the meter frame. On the end of the shaft carrying the worm wheel there is mounted a pointer which engages with the dog on the register, thus permitting the movement of the meter shaft to be transmitted to the register.

INDIVIDUAL CHARACTERISTICS.

Type C.

Two wire—Cuts No. 31 and No. 31a.

Three wire—Cuts No. 32 and No. 32a.

Pressed metal back — kilowatt hour dial — back resistance.

Type C Y.

Three wire—Cuts No. 33 and No. 33a.

Pressed metal back — first Type C meter with kilowatt dial.

Type C X.

Two wire—Cuts No. 34 and No. 34a.

Same as Type C—two wire, except as to voltage rating.

Type C 5.

Two wire—Cuts No. 35 and 35a.

Three wire—Cuts No. 36 and No. 36a.

Same as Type C except that it has a glass cover and is back connected—kilowatt hour dial—combination shunt and resistance.

Type C 6.

Two wire—Cuts No. 37 and No. 37a.
Three wire—Cuts No. 38 and No. 38a.

A modified and improved mechanical design of the Type C meter. The frame is of one piece instead of two. The resistance is combined with the adjustable shunt field coil.

Type C Z 6.

Two wire—Cuts No. 39 and No. 39a.
Same as Type C 6—two wire, except as to voltage rating.

Type C X 6.

Two wire—Cuts No. 40 and No. 40a.
Same as Type C 6—two wire, except as to voltage rating.

Type C P.

Two wire—Cuts No. 41 and No. 41a.
Three wire—Cuts No. 42 and No. 42a.
Same as Type C 6 with the addition of external prepayment device.

Type C P 2.

Two wire—Cuts No. 43 and No. 43a.
Same as Type C P—two wire, except for addition of combined (mechanical) prepayment device which is contained in the meter.

Type C P 3.

Two wire—Cuts No. 44 and No. 44a.
Same as Type C P 2—two wire, except as to improved coin receptacle.

II. ALTERNATING CURRENT METERS.

A.—Single Phase Meters.

General Electric Co.....	Type	I	2 wire
" " ".....	"	I	3 "
" " ".....	"	I S	2 "
" " ".....	"	I P	2 "
" " ".....	"	I P	3 "
" " ".....	"	I P 2	2 "
" " ".....	"	I P 2	3 "
" " ".....	"	D F 2	2 "
" " ".....	"	D F 2	3 "
Westinghouse E. & M. Co.....	"	A	2 "
" " ".....	"	with current transformer	
" " ".....	"	A	3 wire
" " ".....	"	with current transformer	
" " ".....	"	A	2 wire
" " ".....	"	A	self contained
" " ".....	"	A	3 wire
" " ".....	"	A	self contained
" " ".....	"	B	2 wire
" " ".....	"	B	3 "
" " ".....	"	B	2 "
" " ".....	"	B	prepayment
" " ".....	"	B	3 wire
" " ".....	"	B	prepayment
" " ".....	"	C	2 wire
" " ".....	"	C	3 "
" " ".....	"	C D	2 "
" " ".....	"	C D	3 "
" " ".....	"	C D	3 "
" " ".....	"	C E	2 "

A.—Single Phase Meters—*Continued*.

Westinghouse E. & M. Co.....	Type	C E	3 wire
“ “ “	“	Round	2 “
“ “ “	“	Round	3 “
Fort Wayne Elec. Works.....	“	K	2 “
“ “ “	“	K	3 “

General Electric Co.—Type I.

Two wire—Cuts No. 60 and No. 60a.

Three wire—Cuts No. 61 and No. 61a.

The earlier meters of this type employed a cast iron back and an aluminum cover. Later the cover was made from sheet metal, and following this a sheet metal punched back was employed.

The frame is of cast white metal and supports the various parts of the meter.

The register is direct reading, has four dials and is identical with the registers employed on the Type C meters for direct current.

There are two magnets arranged astatically and placed parallel to the meter back.

The field coils are wound upon a laminated iron yoke, which is mounted on the frame.

The moving element consists of an aluminum disk mounted on a bronze shaft; the lower end of the shaft carries a removable pivot.

The top bearing is of brass set in through the frame. The bottom bearing is a jewel set in a threaded brass screw and secured by a lock nut. This meter is provided with a locking device, which is so arranged that by backing out the jewel screw a few turns it lifts the supporting ring, thus raising the moving element from the jewel and placing the disk against the top poles of the magnets and holding it firmly in this position.

There is a single potential pole held in position by the insulated frame. Potential circuit is provided with a so-called testing loop which permits connecting the potential circuit to a separate source of electrical supply.

Full load adjustment is made with the retarding magnets; moving them in from the edge of the disk increases the speed, moving them out toward the edge of the disk decreases the speed. The light load friction compensating device comprises a small rectangular conductor mounted directly above the disk and encircling the potential pole.

Adjustment is secured by means of a small lever arm mounted vertically on the frame of the meter.

At the top of the meter, back of the dial is a soldered connection by means of which adjustment for frequency is made.

General Electric Co.—Type I S.

Two wire—Cuts No. 62 and No. 62a.

Same as Type I—two wire, except that it is back connected for switchboard service.

General Electric Co.—Type I P.

Two wire—Cuts No. 63 and No. 63a.

Three wire—Cuts No. 64 and No. 64a.

Same as Type I except for addition of separate (electrical) prepayment device.

General Electric Co.—Type I P 2.

Two wire—Cuts No. 65 and No. 65a.

Three wire—Cuts No. 66 and No. 66a.

Same as Type I with the addition of combined (mechanical) prepayment device.

General Electric Co.—Type D F 2.

Two wire—Cuts No. 67 and No. 67a.

Three wire—Cuts No. 68 and No. 68a.

The back and base are cast in iron and support the various parts of the meter.

The register is the same as used on the old style T. R. W. meters, being non-direct reading.

There are two magnets held in position on the base with brass shoes.

There is but one field coil located directly under the back edge of the disk, while the potential coil is directly above it over the disk.

The moving element consists of an aluminum disk mounted on a steel shaft.

It has a brass top bearing and jeweled lower bearing, same as old style T. R. W. meters.

The magnet adjustment for full load is the same as on T. R. W. meters.

Light load adjustment is by means of a small coil wound on an iron core which overlaps the disk. Moving it in decreases the speed of the meter at light load.

Power factor adjustment is made with a coil wound around the potential coil.

Westinghouse Elec. & Mfg. Co.—Type A, with current transformer.

Two wire—Cuts No. 80 and No. 80a.

Three wire—Cuts No. 81 and No. 81a.

This meter has an iron frame.

The register is of the direct reading type and records in either .1 or 1. kw. hours. The five dials are on a face of white enamel.

There is only one magnet used in this type of meter, and it is carried on a slotted projection from the base of the frame.

The field coils are covered with white tape and are well shellacked; they are form-wound and are placed on an iron core that projects from the base or frame. They have a capacity of only five amperes. For greater capacities they are connected to an external series current transformer.

The shunt coil consists of a large number of turns of fine copper wire wound over a laminated yoke. In this particular type of meter the coil is connected in series with an impedance coil made up of a large number of turns of fine copper wire wound over an iron core. This impedance coil is insulated from the base and held in position by a clamp.

The moving element consists of an aluminum disk mounted on a vertical steel shaft.

This type of meter has a shaft with a round end that rotates in a cup-shaped sapphire jewel, this jewel being held in position by means of a lock nut. The bearings in many of these meters have been replaced by ball-bearing jewels.

The full load adjustment is made by moving the magnet out from the shaft to increase the speed and moving it in toward the shaft to decrease the speed at any given load.

The full load adjustment is just the reverse of that used in Types B and C meters. The reason for this difference in methods is that the Type A meter is adjusted with the poles of the permanent magnets projecting beyond the edge of the disk, thus any movement in toward the shaft causes the disk to cut more flux and increases the retarding torque; a movement away from the shaft causes a greater projection of the magnet beyond the edge of the disk resulting in decreasing the flux being cut by the disk, thereby increasing the speed.

Adjustment at light load is effected by means of a sliding connection on a horizontal wire or rod; moving this connector to the right will increase the disk speed, and a movement to the left will cause a corresponding decrease in speed. An additional adjustment may be made by use of a "binder" which consists of German silver wire of about No. 24 gauge; these binders are placed around the shunt magnet so as to be short circuited on themselves. A short circuited binder on the left shunt magnet will slow the meter down, and if placed on the right shunt magnet will speed the meter up.

The frequency of this type may be changed from 133 cycles to 60 cycles by soldering together the two wires that project from the top of the left potential coil and changing the connector at the rubber terminal block to the point marked 7200. The power factor adjustment is effected by means of a small resistance coil on the right hand shunt coil; the resistance of this coil is decreased to speed the meter up on power-factor and increased to slow it down.

Westinghouse Elec. & Mfg. Co.—Type A, self contained.

Two wire—Cuts No. 82 and No. 82a.

Three wire—Cuts No. 83 and No. 83a.

This meter is identical with Type A with current transformer, except that it has an internal field capacity of 10 amperes and over.

Westinghouse Elec. & Mfg. Co.—Type B.

Two wire—Cuts No. 84 and No. 84a.

Three wire—Cuts No. 85 and No. 85a.

The case of this meter is of iron with the terminals brought to a terminal box at the top of the meter; the covers are of glass, aluminum or of a composition. A rubber gasket is interposed between the cover and base to keep out moisture.

The registering mechanism is connected to a shaft by a train of gears which are actuated by the moving element. The clocks are all gold plated and read directly in either .1 or 1. kw. hours.

There are two magnets set in front of the meter rigidly connected by a brass yoke, which in turn is attached to the frame.

The field coils consist of a few turns of copper wire wound around an iron core which is attached to the base.

The shunt coil consists of a large number of turns of fine wire wound around a laminated iron core; in this type of meter there is a complete circuit of iron and these coils are wound on projecting pole pieces.

The moving element consists of a corrugated aluminum disk mounted on a brass shaft midway between the coils and also between the magnet poles; the disk is corrugated in order to give it greater mechanical strength and to minimize the effect that a short circuit would produce.

The upper end of the shaft that carries the moving element is hollowed out and a pinion that is screwed directly through the frame is sunk into it. This hole contains small disks of billiard cloth saturated with oil which lubricates the bearing. The lower bearing consists of two highly polished and cupped sapphire jewels; in the hollow space formed by this cupping is placed a small steel ball 1/16 inch in diameter; the upper jewel is attached to the shaft, while the lower one is screwed through the meter frame and held in position by a lock nut.

Full load adjustment is accomplished by the moving of the brake magnets; moving toward the center increases and moving toward the edge of disk decreases the speed. Light load adjustment is accomplished by means of a copper loop which, when moved through the magnetic flux, either increases or decreases the speed; the aim of this device is to compensate for initial friction.

The lag adjustment of this meter is mechanical and consists of a copper strip which is placed directly over the potential coil and under the disk; by moving the strip back or forth the lines of force threading through the disk are changed and the magnetic relation of shunt and series fields is varied. The shunt and series fields of this meter are connected in quadrature.

Westinghouse Elec. & Mfg. Co.—Type B, prepayment.

Two wire—Cuts No. 86 and No. 86a.

Three wire—Cuts No. 87 and No. 87a.

This is the same as Type B, except for the addition of self-contained prepayment device.

Westinghouse Elec. & Mfg. Co.—Type C.

Two wire—Cuts No. 88 and No. 88a.

Three wire—Cuts No. 89 and No. 89a.

The mechanical construction and principle of operation of this meter is almost identical with that of Type B, with the exception of the light load adjustment, which employs two loops cutting lines of force emanating from the iron core on which the shunt coil is wound. This gives a much greater range of adjustment on light load. Frequency adjustment is effected by

removing the insulated washer from under the right end of the power-factor adjustment. This changes the frequency rating from 133 to 60. Power-factor adjustment is effected by a loop located directly under the disk. To decrease the speed under power factor the loop is lowered, and to increase the speed the loop is raised.

Westinghouse Elec. & Mfg. Co.—Type C D.

Two wire—Cuts No. 90 and No. 90a.

Three wire—Cuts No. 91 and No. 91a.

Same as Type B, with following exceptions:

Kilowatt hour dial only—lower jewel screw in fixed position—light load adjustment controlled by lever located on frame of meter directly below right permanent magnet—electrical lag adjustment, accomplished by varying the resistance of a coil placed over the projecting shunt pole.

Westinghouse Elec. & Mfg. Co.—Type C E.

Two wire—Cuts No. 92 and No. 92a.

Three wire—Cuts No. 93 and No. 93a.

Same as Type C D, with the following exceptions:

Micrometer light load adjustment—variable power-factor adjustment.

Westinghouse Elec. & Mfg. Co.—Type Round.

Two wire—Cuts No. 94 and No. 94a.

Three wire—Cuts No. 95 and No. 95a.

Same as Type A, except that it has no frequency adjustment and originally was placed on the market without the ball bearing.

Fort Wayne Elec. Works — Type K.

Two wire—Cuts No. 96 and No. 96a.

Three wire—Cuts No. 97 and No. 97a.

The frame and cover of this meter are of iron. The cover sets into a depression in the base, which is lined with felt.

The register is direct reading, with a porcelain face, on which are five dials. The train is operated by a worm gear directly from shaft.

There may be either one or two magnets which overlap the disk.

The field coils are wound without any iron in the core and are clamped together by means of brass clamps which are screwed into the base. The potential coil consists of a starting coil which is set inside the disk. This coil is connected in series with an impedance coil located in the base of the meter.

The moving element consists of a cylindrical cup of aluminum rigidly connected to a steel shaft.

The shaft has a rounded end which rests on a cupped sapphire jewel; this is held in position by a lock nut. The upper bearing is hollow and holds the end of the shaft.

Full load adjustment is effected by means of the permanent magnet; moving it upward decreases the speed, and moving it downward increases the speed. Light load adjustment is effected by turning a screw which moves a coil back and forth in the main potential coil.

When a magnetic balance is obtained in this manner the shunt and field coils are then in quadrature.

The changes for frequency and lag are both made with an electrical adjustment, the taps being brought out from the impedance coil. The change in lag is accomplished by inserting a resistance of German silver wire in the coil at the left. The frequency change is accomplished with the coil on the right side of the meter. If switch is closed it is then adjusted for 60 cycles, if open, for 133 cycles.

B.—Polyphase Meters.					
General Electric Co.....	Type	D 3	2	phase	
“ “ “	“	D 3	3	“	
“ “ “	“	D F 2 P P	2	“	
“ “ “	“	D F 2 P P	3	“	
Westinghouse E. & M. Co.....	“	Round	2	“	
“ “ “	“	Round	3	“	
“ “ “	“	C	2	“	
“ “ “	“	C	3	“	
“ “ “	“	C A	2	“	
“ “ “	“	C A	3	“	

General Electric Co.—Type D 3.

Two or three phase—Cuts No. 110 and No. 110a.

The meters of this type employ a cast iron back and a sheet metal cover. The frame is of cast white metal and supports the various internal parts of the meter.

The register is direct reading and has four dials and is identical with the registers employed on the Type C meters for direct current.

There are four magnets arranged astatically and placed parallel to the meter back.

The field coils are wound upon laminated iron yokes which are held in place on the frame.

The moving element consists of two aluminum disks mounted on a bronze shaft, the lower end of which carries a removable pivot.

The top bearing is of brass set in through the frame. The bottom bearing is a jewel set in a threaded brass screw and held tight by a lock nut. This meter is provided with a locking device which is so arranged that by backing out the jewel screw a few turns it lifts the supporting ring, thus raising the moving element from the jewel and placing the disk against the top poles of the magnets and holding it firmly in this position.

The potential poles are held in position by the insulated frame. The potential circuits are provided with so-called testing loops which permit connecting the potential circuits to a separate source of electrical supply.

Full load adjustment is made with the retarding magnets; moving them in from the edge of the disk increases the speed, moving them out toward the edge of the disk decreases the speed. The light load friction compensating device comprises a small rectangular conductor mounted directly above the disk and encircling the potential pole on each element.

Adjustment is secured by means of two small lever arms, one for each element, mounted vertically on the frame of the meter.

There are soldered connections by means of which adjustments for frequency are made.

The fields are balanced by means of two field balancing loops, one being located directly under each disk.

General Electric Co.—Type D F 2 P P.

Two or three phase — Cuts No. 111 and No. 111a.

The back and base are of one piece of cast brass.

The register is of the direct reading type with five dials.

Two magnets are employed, held in position by brass clamps which are fastened to brass studs which are in turn held by screws and lock nuts to the meter base.

The field coils are four in number, two per phase, and are held in position by brass clamps fastened to studs which in turn are fastened to the base. The field coils for one phase have a frontal position on the base, while the coils for the other phase have a backward position on the base.

The moving element consists of a single aluminum disk, large in diameter, mounted on a shaft.

The bearings, etc., are identical with those employed on the T. R. W. meters.

Full load adjustment is made either with the retarding magnets or by moving the potential coils; moving them toward the shaft increases the speed of the disk. The magnet adjustment is the same as for T. R. W. meters.

Light load adjustment is made by moving the potential coils parallel to the meter back.

Power factor adjustment is made by varying the resistance of the lag coils, which are wound over the potential coils.

There is a potential pole for each phase arranged respectively at the front and back of the meter base. Two re-active coils, one for each phase, are mounted in the top and each connected in series with its proper potential coil.

An iron wire is mounted vertically near the hub of the disk to eliminate the possibility of creeping.

Westinghouse Elec. & Mfg. Co.—Type Round.

Two or three phase — Cuts No. 120 and No. 120a.

This meter has an iron frame. All of the parts are attached to the back and lower frame.

The register is gold plated and of the direct reading type and records in either .1 or 1. kw. hours. The five dials are on a white enamel face.

There are only two magnets used in this type of meter and they are carried on slotted projections from the base.

The field coils are covered with white tape and are well shellacked; they are form wound and are placed on an iron core that projects from the base or frame.

The shunt coils consist of a large number of turns of fine copper wire wound over laminated yokes. In this particular type of meter the coils are connected in series with impedance coils made up of a large number of turns of fine copper wire wound on an iron core. The impedance coils are insulated from the base and held in position by clamps.

The moving element consists of two aluminum disks mounted on a vertical steel shaft.

The first form of this meter had a shaft with a round end that rested in a cupped sapphire jewel, this jewel being held in position by means of a lock nut. Many of these meters have since been equipped with ball bearings.

The speed of these meters at full load is controlled by permanent magnets; moving these magnets toward the center of the disk causes the meter to decrease in speed, while moving them in the opposite direction causes an increase in speed. This is directly opposite to the effect produced in the B and C types. No provision was made for adjusting at light load in the earlier forms of this meter, but it can be effected by placing small binders of wire around the laminated yoke, over which the potential coil is wound.

In the later meters of this type light load adjustment is provided for by means of an extra coil wound over the potential coil and connected to a brass bar just below the disk; in the center of this winding a tap is taken off and carried to a screw which is attached to the brass bar. By sliding the screw to the left the speed is increased and by sliding it to the right it is decreased.

Westinghouse Elec. & Mfg. Co.—Type C.

Two or three phase — Cuts No. 121 and No. 121a.

The case of this meter is of iron and the terminals are brought to a terminal box at the side. A rubber gasket is interposed between the cover and base to keep out moisture.

The registering mechanism is connected to the shaft by a train of gears which are actuated by the moving element. The clocks are all gold plated and read directly in .1 or 1. kw. hours.

There are four magnets set in front of the meter, rigidly connected by a brass yoke, which in turn is attached to the frame.

The field coils consist of a few turns of copper wire wound around an iron core which is attached to the base.

The potential coils consist of a large number of turns of fine wire wound around a laminated iron pole. In this type of meter there is a complete circuit of iron and these coils are wound on projecting pole pieces.

The moving element consists of two corrugated aluminum disks mounted on a brass shaft midway between the coils, and also between the magnet poles. The disk is corrugated in order to give it greater mechanical strength and to minimize the effect that a short circuit would produce.

The upper end of the shaft that carries the moving element is hollowed out and a pinion that is screwed directly through the frame is sunk into it.

This hole contains small disks of billiard cloth saturated with oil to lubricate the bearing.

The lower bearing consists of two highly polished and cupped sapphire jewels. In the hollow space formed by this cupping is placed a small steel ball 1/16 inch in diameter. The upper jewel is attached to the shaft, while the lower one is screwed through the frame and held in position by a lock nut.

Full load adjustment is accomplished by moving the brake magnets; moving toward the center increases and moving toward the edge of the disk decreases the speed. Light load adjustment is accomplished by means of a copper loop which, when moved through the magnetic flux, either increases or decreases the speed. The aim of this device is to compensate for initial friction.

The lag adjustment of this meter is mechanical and consists of a copper strip which is placed directly over the potential coil and under the disk. By moving the strip back or forth the number of lines of force threading through the disk are changed and the magnetic relation of shunt and series fields is varied. The shunt and series fields of this meter are connected in quadrature.

Westinghouse Elec. & Mfg. Co.—Type C A.

Two or three phase—Cuts No. 122 and No. 122a.

Same as Type C, with following exceptions: Magnetic shield between elements—micrometer light load adjustment—dial located midway between elements—shorter shaft—side-connection terminal box.

<p>In the Matter of Certifying Types of ELECTRIC CURRENT ENERGY METERS.</p>	<p>Case No. 1100 Amendatory Resolution certifying additional types of electric cur- rent energy meters December 17, 1909</p>
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Whereas, By resolution adopted October 26, 1909, this Commission certified certain types of electric current energy meters as conforming to specifications for electric current energy meters adopted by the Public Service Commission for the First District on June 25, 1909, and

Whereas, It is now desired to certify certain additional types of meters.

Resolved, That the resolution herein adopted by the Public Service Commission for the First District on October 26, 1909, be amended by inserting therein the following:

(1) After the words "Type C P 3—two wire," on page three of the printed copy of said resolution, the following:

"Type C Q—two wire.
"Type C Q—three wire."

(2) After the words "General Electric Co.—Type C P 3—2 wire," on page 8, the following:

"General Electric Co.—Type C Q—2 wire.
"General Electric Co.—Type C Q—3 wire."

(3) After Type C P 3, on page 10, the following:

"Type C. Q

"Two wire — Cuts No. 50 and No. 50a.

"Three wire — Cuts No. 51 and 51a.

"Same as Type C 6 in mechanical construction.

"The field coils are so arranged as to give a four pole effect; the armature is wound so as to operate in a four pole field, four brushes, two adjustable shunts."

Electrical Corporations.—Uniform measurement of current supplied.

Case No. 1101

Hearing Order

ORDER FOR HEARING.

(April 21, 1909.)

Ordered, That a hearing be held by the Public Service Commission for the First District on April 29, 1909, at 3:30 P. M., at the rooms of the Commission, 154 Nassau Street, New York City, for the purpose of determining whether, in order to promote uniform and accurate measurement of electric current supplied to customers by electrical corporations within the First District, an order should be issued by the Commission, containing substantially the provisions set out in the draft hereto annexed.

Ordered, further, That a copy of this order, with the draft annexed, be served on all the electrical corporations within this district at least four days before the date fixed for hearing.

HEARING ORDER

AS TO

PROVISIONS PROPOSED TO BE MADE AS TO THE DISCONTINUANCE OF CERTAIN TYPES OF ELECTRIC CURRENT ENERGY METERS.

Section 1. Whenever complaint as to the accuracy of any Electric Current Energy Meter of any of the types specified in section 3 hereof and identified by the cuts and the printed description annexed to and made part of this order shall be made to the company furnishing said meter, or whenever any meter of any such type shall be tested by the Public Service Commission, every such meter so complained of or so tested shall be removed from the consumer's premises by the electrical corporation furnishing said meter to the said consumer.

Section 2. On or before December 31, 1909, every Electric Current Energy Meter of any of the types specified in section 3 hereof shall be removed from the consumer's premises by the electrical corporation furnishing said meter to said consumer, and another meter of a type certified by the Public Service Commission as conforming to the specifications prescribed by the Public Service Commission for the First District shall be substituted therefor.

Section 3. The following types are the ones referred to in sections 1 and 2 above:

GENERAL ELECTRIC COMPANY.

Type C-1.

Type C-4.

Type DF-2-PP.

Type DF-2.

WESTINGHOUSE ELECTRIC AND MANUFACTURING COMPANY.

Round Type, Three-Wire, with Transformer.
Round Type, Polyphase.
Type C, Polyphase.

STANLEY INSTRUMENT COMPANY.

Type G, Old Form.

SANGAMO ELECTRIC COMPANY.

Type Gutmann.

SIEMANS-HAISKE ELECTRIC COMPANY OF AMERICA.

Type Duncan.

(See report in Case 1100, *supra*.)

A hearing was held April 29, 1909.

Electrical Corporations.—Standard form of reports on testing
of electric meters.

Case No. 1154

Hearing Order
Final Order

CASE No. 1154, ORDER FOR HEARING.
(August 20, 1909.)

Ordered, That a hearing be held by the Public Service Commission for the First District on Monday, August 30, 1909, at 2:30 P. M., at the office of the Commission, 154 Nassau Street, New York City, for the purpose of determining whether, in order to insure the reporting to the Public Service Commission of all tests of electric meters according to a standard form of report, an order should be issued by the Commission, containing substantially the provisions in the draft hereto annexed.

Ordered, further, That a copy of this order, with the draft annexed, be served upon all the electrical corporations within this district at least five days before the date fixed for hearing.

RULES AND REGULATIONS RELATIVE TO THE TESTING OF ELECTRIC METERS AND TO THE REPORTING OF SUCH TESTS TO THE PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

Section 1. Every electrical corporation operating within the First District shall file with the Public Service Commission for the said district monthly reports, in the form hereinafter prescribed, stating the results of all tests of electric meters tested for accuracy during that month; and every electrical corporation operating within the First District and the Second District shall report to the Commission for the First District as to meters installed upon premises within the First District only.

§ 2. Such reports shall be filed not later than the 15th of the following month.

§ 3. All tests shall be made pursuant to the rules and regulations hereinafter prescribed.

§ 4. All tests shall be made under actual operating conditions as regards voltage, frequency, temperature, stray fields and vibration.

§ 5. Where shunts, series current transformers or potential transformers are used in connection with a meter, the meter shall be tested from the line side of such apparatus when the voltage does not exceed 600 volts.

§ 6. When the line voltage exceeds 600 volts, the meter may be tested as a self-contained meter, and the ratio certificates of the transformers may be used in calculating the true line watts, provided said certificates are dated within one year previous to the date of the test.

§ 7. When rotating standard meters are used, the connections must be so arranged as to give the tester full control of the starting and stopping of the standard and at the same time allow him to count the revolutions of the meter under test.

§ 8. Each meter shall be tested independently, and no meter shall be tested while connected in series with one or more other meters unless the potential circuit of each meter is so arranged as not to be fed through the field of any meter under test or rotating standard.

§ 9. Direct reading indicating wattmeters shall not be used as standard instruments in making tests of consumers' meters.

§ 10. Whenever possible, tests shall be made on three loads, viz.: at one-tenth of the full rated capacity of the meter, at normal load and at the full rated capacity of the meter. The average of these three tests (obtained by multiplying the result of the normal load test by 3, adding the results of the light and full load tests, and dividing the total by 5) shall be deemed the condition of the meter, and such final average shall be reported to the Commission on the form prescribed by it.

§ 11. In installations where it is impossible to reach either 10% of rated capacity or 100% of rated capacity, tests shall be made at minimum, maximum and normal load and values given in the ratios stated above.

§ 12. If a meter is found to be connected to a load which takes a current varying not more than 5% of the rated meter capacity, and consisting of one or more units which will furnish such a load regardless of its method of control, then such load shall be used as the normal and only load during the test of a complaint meter.

§ 13. The following classification, in percentage of installation, shall be used in determining normal load unless an actual examination of the consumer's installation and use shows an important variation from this classification, in which case the normal load shall be determined by the consumer's actual use.

CLASSIFICATION OF NORMAL LOAD IN PERCENTAGES OF INSTALLATION USED IN TESTING COMPLAINT METERS.

A. Residence and apartment lighting.....	25%
B. Elevator service.....	40%
C. Factories (individual drive), churches and offices.....	45%
D. Factories (shaft drive), theaters, clubs, entrance, hallway and general store lighting.....	60%
E. Saloons, restaurants, pumps, air compressors, ice machines, etc...	70%
F. Sign and window lighting, blowers and moving picture machines..	100%

When a meter is found to be connected to an installation consisting of two or more of the above classes of loads, the normal load must be obtained by taking the average of the percentages for the classes so connected.

§ 14. Three tests shall be run at each load at which the meter is tested, but should any two fail to agree within 1%, a fourth shall be run and the average for that load shall be the average of the three tests agreeing with each other within limits of 1%.

§ 15. All reports of complaint tests shall be made in the form designated "Form A," hereto attached. A complaint meter test is a test of an electric meter made by an electrical corporation upon the premises where the meter is installed as a result of a complaint of the consumer, or by direction of

the corporation itself where a question has arisen either as to the accuracy of the meter or as to amount of the bill.

§ 16. All reports of periodic tests shall be made in the form designated "Form B," hereto attached. A periodic meter test is a test of an electric meter made by an electrical corporation in the regular course of its business upon the premises where the meter is installed, but not at the time of installation, which test is not made as the result of a complaint from the consumer nor by direction of the corporation that a special test be made.

§ 17. One sheet shall be used for each type of meter tested.

FORM A.

COMPLAINT TESTS.

Meter tests made during the month of.....19...
by the
.....Company.

Manufacturer's name.....; type.....; { A. C.
or
D. C.

N. B. A complaint meter test is a test of an electric meter made by an electrical corporation upon the premises where the meter is installed as a result of a complaint of the consumer, or by direction of the corporation itself where a question has arisen either as to the accuracy of the meter or as to the amount of the bill.

Final Average efficiency — per cent. (Col. 1).	No. of Meters. (Col. 2).	Percentage. (Col. 3).
0 or Non-Recording.		
.001-69+		
70-79+		
80-84+		
85-89+		
90-94+		
95+		
96+		
97+		
98+		
99+		
100+		
101+		
102+		
103+		
104+		
105-109+		
110-114+		
115-119+		
120-129+		
130-and above		
Total.....		

The plus sign (+) in column 1 is used to indicate any fraction from .000 up to .999; thus "90-94+" includes every meter found upon final average to register between 90.000 and 94.999, both inclusive; and "100+" includes every meter found upon final average to register between 100.000 and 100.999, both inclusive.

The above report is a correct summary of the tests made by this Company, and all tests were conducted according to the rules of the Public Service Commission as prescribed in order

FORM B.

PERIODIC TESTS.

Meter tests made during the month of.....19 .
by the.....Company.

Manufacturer's name.....; type.....; { A. C.
or
D. C.

N. B. A periodic meter test is a test of an electric meter made by an electrical corporation in the regular course of its business upon the premises where the meter is installed, but not at the time of installation, which test is not made as the result of a complaint from the consumer nor by direction of the corporation that a special test be made.

Final Average efficiency — per cent. (Col. 1).	No. of Meters. (Col. 2).	Percentage. (Col. 3).
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0 or Non-Recording.

.001-69+

70-79+

80-84+

85-89+

90-94+

95+

96+

97+

98+

99+

100+

101+

102+

103+

104+

105-109+

110-114+

115-119+

120-129+

130- and above.

Total.....

The plus sign (+) in column 1 is used to indicate any number from .000 up to .999 thus "90-94+" includes every meter found upon final average to register between 90.000 and 94.999, both inclusive; and "100+" includes every meter found upon final average to register between 100.000 and 109.999, both inclusive.

The above report is a correct summary of the tests made by this Company, and all tests were conducted according to the rules of the Public Service Commission as prescribed in Order

Hearings were held August 30th and September 13th. Thereafter the Commission issued the following order:

CASE No. 1154, FINAL ORDER.
(October 26, 1909.)

After a hearing in the above-entitled matter duly held before Mr. Commissioner Maltbie, presiding, on August 30, 1909. and by adjournment duly had on September 13, 1909, J. W. Lieb, Jr., Esq., appearing for The New York

Edison Company; W. W. Freeman, Vice-President, appearing for The Edison Electric Illuminating Company of Brooklyn; Frank W. Smith, Esq., appearing for United Electric Light and Power Company; C. G. M. Thomas, Esq., appearing for New York & Queens Electric Light and Power Company; Henry E. McGowan, Esq., appearing for The Flatbush Gas Company; J. Phillips, Esq., appearing for Richmond Light and Railroad Company; J. M. Butler, Esq., appearing for Bronx Gas and Electric Company; E. S. Bellows, Esq., and F. J. Murmann, Esq., appearing for Westchester Lighting Company; it is
Ordered:

In the Matter
of
A Standard Form of Reports on TESTING OF
ELECTRIC METERS.

Case No. 1154
Order amending final
order
December 17, 1909

Whereas: The Public Service Commission for the First District, by order of October 26, 1909, prescribed rules and regulations relative to the testing of electric meters and to the reporting of such tests to the Public Service Commission for the First District; and

Whereas: It is now desired to add certain types of meters to Group 4 of Direct Current Meters specified in said order;

Resolved: That the said order of October 26, 1909, be amended by inserting therein after the words "Type C P 3 — Two wire — General Electric Co.", on page 5 of the printed copy of said order, the following:

"Type C Q. — Three wire — General Electric Co."
"Type C Q — Two wire — General Electric Co."

Further resolved: That this resolution take effect immediately and continue in force until November 1, 1912, unless sooner modified or abrogated.

Further resolved: That every electrical corporation operating within the First District, within ten days after service upon it of this order, shall notify the Public Service Commission for the First District whether it is accepted and will be obeyed.

RULES AND REGULATIONS RELATIVE TO THE TESTING OF ELECTRIC METERS AND TO THE REPORTING OF SUCH TESTS TO THE PUBLIC SERVICE COMMISSION, FIRST DISTRICT.

Section 1. Every Electrical Corporation operating within the First District shall file with the Public Service Commission for the said district monthly reports, in the form hereinafter prescribed, stating the results of all tests of electric meters tested for accuracy during that month; and every Electrical Corporation operating within the First District and the Second District shall report to the Commission for the First District as to meters installed upon premises within the First District only.

§ 2. Such reports shall be made for the calendar month and shall be filed not later than the 15th of the following month.

§ 3. All tests shall be made pursuant to the rules and regulations hereinafter prescribed.

§ 4. All tests shall be made with the meter in its permanent position on the consumer's premises and under actual operating conditions as regards voltage, frequency, temperature, stray fields and vibration.

§ 5. Where shunts, series current transformers or potential transformers are used in connection with a meter, the meter shall be tested from the line side of such apparatus when the voltage does not exceed 600 volts.

§ 6. In periodic tests where the line voltage exceeds 600 volts, the meter may be tested as a self-contained meter, and the ratio certificates of the transformers may be used in calculating the true line watts, provided said certificates are dated within the five years preceding the time the meter is tested.

In complaint and office tests, the Commission will accept the ratio certificates of the transformers, provided they are dated within the year preceding the time the meter is tested.

§ 7. When rotating standard meters are used, the connections must be so arranged as to give the tester full control of the starting and stopping of the standard and at the same time allow him to count the revolutions of the meter under test.

§ 8. Each meter shall be tested independently, and no meter shall be tested while connected in series with one or more other meters unless the potential circuit of each meter is so arranged as not to be fed through the field of any meter under test or rotating standard.

§ 9. All indicating and integrating instruments used as standard instruments in testing meters shall be equipped with scales properly proportioned to the loads measured.

§ 10. All meters shall be adjusted so as to register with an error of not more than one per cent at light load and at full load, and both of these adjustments shall be maintained in this condition as nearly as possible.

§ 11. All meters, whenever possible, shall be tested at three loads: one-tenth of the full rated capacity of the meter, normal load, and full rated capacity of the meter.

The average of these tests, obtained by multiplying the result of the test at normal load by three, adding the result of the tests at one-tenth capacity and full capacity and dividing the total by five, shall be deemed the condition of the meter, and such final average shall be reported to the Commission on the form prescribed by it.

§ 12. In an installation where it is impossible to obtain a load of 10 per cent of the rated capacity or 100 per cent of the rated capacity of the meter, tests shall be made at the nearest obtainable loads to 10 per cent and 100 per cent of rated capacity of the meter and values given in the ratios as stated above.

§ 13. The following classification, in percentage of installation, shall be used in determining normal test load:

CLASSIFICATION OF INSTALLATION TO BE USED IN TESTING METERS AT NORMAL LOAD.

A. Residence and apartment lighting.....	25%
B. Elevator service.....	40%
C. Factories (individual drive), churches and offices.....	45%
D. Factories (shaft drive), theatres, clubs, entrances, hallways and general store lighting.....	60%
E. Saloons, restaurants, pumps, air compressors, ice machines and moving picture theatres.....	70%
F. Sign and window lighting and blowers.....	100%

When a meter is found to be connected to an installation consisting of two or more of the above classes of loads, the normal load used must be obtained by taking the average of the percentages for the classes so connected.

§ 14. Three tests shall be made at each load at which the meter is tested, but, should any two fail to agree within 1 per cent, additional tests shall be made until three results are obtained which do not vary one from another more than 1 per cent.

§ 15. All reports of complaint tests shall be made in the form designated "Form A," hereto attached. A complaint meter test is a test of an electric meter made by an electrical corporation, upon the premises where the meter is installed, as a result of a complaint of the consumer.

§ 16. All reports of periodic tests shall be made in the form designated "Form B," hereto attached. A periodic meter test is a test of an electric

meter made by an electrical corporation in the regular course of its business upon the premises where the meter is installed, but not at the time of installation, which test is not made as the result of a complaint from the consumer nor by direction of the corporation, of an officer or of an employee that a special test be made.

§ 17. All reports of office tests shall be made in the form designated "Form C," hereto attached. An office meter test is a test of an electric meter made by an electrical corporation, upon the premises where the meter is installed, by direction of the corporation itself, of an officer, or of an employee that a special test be made.

§ 18. One sheet, 8½ inches by 11 inches, shall be used for each of the following groups of meters, the types referred to being those described and identified in the "Amendatory Resolution Certifying Types of Electric Current Energy Meters" in Case No. 1100, adopted by the Public Service Commission on October 26, 1909:

CLASSIFICATION OF CERTIFIED METERS.

DIRECT CURRENT METERS.

Group 1.

Type	F N	.....	Two	wire—General Electric Co.			
"	F N	.....	Three	"	"	"	"
"	Q 3	.....	"	"	"	"	"
"	D E N	.....	Two	"	"	"	"
"	J N	.....	"	"	"	"	"
"	J 3	.....	Three	"	"	"	"
"	D N	.....	Two	"	"	"	"
"	D 3	.....	Three	"	"	"	"
"	J 1	.....	Two	"	"	"	"
"	J 1	.....	Three	"	"	"	"
"	D 1	.....	Two	"	"	"	"
"	D 1	.....	Three	"	"	"	"
"	J 2	Two	"	"	"	"
"	J 2	Three	"	"	"	"
"	D 2	Two	"	"	"	"
"	D 2	Three	"	"	"	"

Group 2.

Type	E G	Two	wire—General Electric Co.			
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Group 3.

Type	G 2	Two	wire—General Electric Co.			
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Group 4.

Type	C	Two	wire—General Electric Co.			
"	C	Three	"	"	"	"
"	C Y	"	"	"	"	"
"	C X	Two	"	"	"	"
"	C 5	"	"	"	"	"
"	C 5	Three	"	"	"	"
"	C 6	Two	"	"	"	"
"	C 6	.....	Three	"	"	"	"
"	C Z 6	.....	Two	"	"	"	"
"	C X 6	.....	"	"	"	"	"
"	C P	.....	"	"	"	"	"
"	C P	.....	Three	"	"	"	"
"	C P 2	.....	Two	"	"	"	"
"	C P 3	.....	"	"	"	"	"

ALTERNATING CURRENT METERS.

A — SINGLE PHASE

Group 10.

Type I	.....	Two wire—	General Electric Co.
" I	.....	Three "	" " " "
" I S	.....	Two "	" " " "
" I P	.....	" "	" " " "
" I P	.....	Three "	" " " "
" I P 2	.....	Two "	" " " "
" I P 2	.....	Three "	" " " "

Group 11.

Type D F 2	.....	Two wire—	General Electric Co.
" D F 2	.....	Three "	" " " "

Group 15.

Type A, with current transformer.....	Two wire—	
	Westinghouse Elec. & Mfg. Co.	
" A, " " " "	Three wire—	
	Westinghouse Elec. & Mfg. Co.	
" A, self-contained	Two wire—	
	Westinghouse Elec. & Mfg. Co.	
" A, " " " "	Three wire—	
	Westinghouse Elec. & Mfg. Co.	

Group 16.

Type B.....	Two wire—	Westinghouse Elec. & Mfg. Co.
" B.....	Three "	" " " "
" B, prepayment.....	Two "	" " " "
" B, "	Three "	" " " "

Group 17.

Type C	Two wire—	Westinghouse Elec. & Mfg. Co.
" C	Three "	" " " "
" C D	Two "	" " " "
" C D	Three "	" " " "
" C E	Two "	" " " "
" C E	Three "	" " " "

Group 18.

Type Round.....	Two wire—	Westinghouse Elec. & Mfg. Co.
" Round.....	Three "	" " " "

Group 25.

Type K.....	Two wire—	Fort Wayne Electric Works
" K.....	Three "	" " " "

B—POLYPHASE.

Group 30.

Type D 3.....	Two phase—	General Electric Co.
" D 3.....	Three "	" " " "

Group 31.

Type D F 2 P P.....	Two phase—	General Electric Co.
" D F 2 P P.....	Three "	" " " "

Group 35.

Type Round.....	Two phase—Westinghouse Elec. & Mfg. Co.
“ Round.....	Three “ “ “ “ “

Group 36.

Type C	Two phase—Westinghouse Elec. & Mfg. Co.
“ C	Three “ “ “ “ “
“ C A.....	Two “ “ “ “ “
“ C A.....	Three “ “ “ “ “

FORM A.

COMPLAINT TESTS.

Meter tests made during the month of....., 19...
by the
..... Company.

Manufacturer's name.....; Group.....; { A.C.
or
D.C.

N. B.—A complaint meter test is a test of an electric meter made by an electrical corporation, upon the premises where the meter is installed, as a result of a complaint of the consumer.

Final Average Efficiency—per cent. (Col. 1).	No. of Meters. (Col. 2).	Percentage. (Col. 3).
0 or Non-Recording.....		
.001-79+		
80-89+		
90-94+		
95+		
96+		
97+		
98+		
99+		
100+		
101+		
102+		
103+		
104+		
105-109+		
110-119 +.....		
120 and above.....		
Total		

The plus sign (+) in column 1 is used to indicate any fraction from .000 up to .999; thus “90-94+” includes every meter found upon final average to register between 90.000 and 94.999, both inclusive; and “100+” includes every meter found upon final average to register between 100.000 and 100.999, both inclusive.

The above report is a correct summary of the tests made by this Company, and all tests were conducted according to the rules of the Public Service Commission as prescribed in Final Order adopted October 26, 1909, in Case No: 1154.

.....

FORM B.

PERIODIC TESTS.

Meter tests made during the month of....., 19...
by the

..... Company.

Manufacturer's name.....; Group.....; { A.C.
or
D.C.

N. B.—A periodic meter test is a test of an electric meter made by an electrical corporation in the regular course of its business upon the premises where the meter is installed, but not at the time of installation, which test is not made as the result of a complaint from the consumer nor by direction of the corporation, of an officer or of an employee that a special test be made.

Final Average Efficiency—per cent. (Col. 1).	No. of Meters. (Col. 2).	Percentage. (Col. 3).
0 or Non-Recording.....		
.001-79+		
80-89+		
90-94+		
95+		
96+		
97+		
98+		
99+		
100+		
101+		
102+		
103+		
104+		
105-109+		
110-119+		
120 and above.....		
Total		

The plus sign (+) in column 1 is used to indicate any number from .000 up to .999; thus "90-94+" includes every meter found upon final average to register between 90.000 and 94.999, both inclusive; and "100+" includes every meter found upon final average to register between 100.000 and 100.999, both inclusive.

The above report is a correct summary of the tests made by this Company, and all tests were conducted according to the rules of the Public Service Commission as prescribed in Final Order adopted October 26, 1909, in Case No. 1154.

FORM C.

OFFICE TESTS.

Meter tests made during the month of....., 19...
by the

..... Company.

Manufacturer's name.....; Group.....; { A.C.
or
D.C.

N. B.—An office meter test is a test of an electric meter made by an electrical corporation, upon the premises where the meter is installed, by direction of the corporation itself, of an officer or of an employee that a special test be made.

Final Average Efficiency—per cent. (Col. 1).	No. of Meters. (Col. 2).	Percentage. (Col. 3).
0 or Non-Recording.....		
.001-79+		
80-89+		
90-94+		
95+		
96+		
97+		
98+		
99+		
100+		
101+		
102+		
103+		
104+		
105-109+		
110-119+		
120 and above.....		
Total		

The plus sign (+) in column 1 is used to indicate any fraction from .000 up to .999; thus "90-94+" includes every meter found upon final average to register between 90.000 and 94.999, both inclusive; and "100+" includes every meter found upon final average to register between 100.000 and 100.999, both inclusive.

The above report is a correct summary of the tests made by this Company, and all tests were conducted according to the rules of the Public Service Commission as prescribed in Final Order adopted October 26, 1909, in Case No. 1154.

Further ordered: That this order take effect November 1, 1909, and shall continue in force for a period of three (3) years unless sooner modified or abrogated.

Further ordered: That every electrical corporation operating within the First District within ten (10) days after service upon it of this order shall notify the Public Service Commission for the First District whether it is accepted and will be obeyed.

Electrical Corporations.— Type of electric current energy meters.

Case No. 1189

Hearing Order

Final Order

In the Matter
of
Discontinuing the use of CERTAIN ELECTRIC
CURRENT ENERGY METERS.

Case No. 1189,
Order for Hearing.
December 14, 1909.

Ordered, That a hearing be held by the Public Service Commission for the First District on December 22, 1909, at 12:30 P. M., at the rooms of the Commission, No. 154 Nassau Street, New York City, for the purpose of determining whether an order should be issued by the Commission containing substantially the following provisions:

Section 1. On January first, nineteen hundred and ten, the use of all electric current energy meters, save those of such types as have been certified by the Public Service Commission for the First District as conforming to its specifications for electric current energy meters, shall be discontinued; and in addition all such meters shall be removed, not later than January first, nineteen hundred and ten, from the consumers' premises by the companies owning or using such meters.

§ 2. This order shall take effect on January first, nineteen hundred and ten, and shall continue in force until abrogated or modified by the Commission.

§ 3. The Secretary of this Commission shall serve, in the manner prescribed by law, upon every electrical corporation within this District, on or before December eighteen, nineteen hundred and nine, a certified copy of this order; and on or before January first, nineteen hundred and ten, every electrical corporation so served shall notify the Commission whether the terms of this order are accepted and will be obeyed.

Further ordered, That a copy of this order be served on all the electrical corporations within this District at least three days before the date fixed for hearing.

CASE NO. 1189, FINAL ORDER.

(December 24, 1909.)

A hearing in the above entitled matter having been held December 21, 1909, by the Public Service Commission for the First District, Honorable Milo R. Maltbie, Commissioner, presiding, it is hereby

Ordered,

Section 1. That on or before January 1, 1910, the use of all electric current energy meters, save those of such types as have been certified by the Public Service Commission for the First District as conforming to its specifications for electric current energy meters, shall be discontinued and all such meters shall be removed not later than January 1, 1910, from the consumers' premises by the companies owning or using such meters.

This order shall apply to all electrical corporations within the First District, and shall be observed by all such corporations as therein provided except as hereinafter provided.

§ 2. The provisions of this order shall apply to the Edison Electric Illuminating Company of Brooklyn, except that as to that company the date, "April 1, 1910," shall be substituted for the date "January 1, 1910."

§ 3. The provisions of this order shall apply to the Queensboro Gas and Electric Company, except that as to that company the date, "July 1, 1910," shall be substituted for the date "January 1, 1910."

§ 4. The provisions of this order shall apply to the Richmond Light and Railroad Company, except that that company shall have until January 1, 1911, to discontinue the use of Type G 2d form and Jewel Type meters and to remove same from consumers' premises.

§ 5. That this order shall take effect immediately and shall continue in force until modified or abrogated by further order of the Commission.

§ 6. That the Secretary of this Commission shall serve in the manner prescribed by law upon every electrical corporation within this District, on or before December 27, 1909, a certified copy of this order; and on or before January 1, 1910, every electrical corporation so served shall notify the Public Service Commission for the First District whether the terms of this order are accepted and will be obeyed.

Matters Relating Mainly to Gas Corporations.

Kings County Lighting Company.—Application by gas consumers of the 30th Ward of Brooklyn for a reduction in the price of gas.

Case No. 1144

Order directing return of petition

This proceeding was begun upon the application of certain gas consumers of the 30th Ward of the Borough of Brooklyn for an order to compel the Kings County Lighting Company to reduce its price of gas from \$1 to 80 cents per 1,000 cubic feet. Counsel to the Commission having reported that the application was insufficient as a complaint to give the Commission jurisdiction to proceed under sections 71 and 72 of the Public Service Commissions Law, the Commission, on August 6, 1909, directed the secretary to return the petition to the signers on the ground that it was insufficient as a complaint under sections 71 and 72 of the Public Service Commissions Law and Rule 25 of the Commission to give the Commission jurisdiction to take action thereon.

Gas Corporations.—General investigation, inter-company relationship, franchises and condition of properties.

Case No. 1097

Hearing Order

The Commission, on April 12, 1909, directed that a hearing be held under Order No. 615, in the matter of a general investigation into the condition of gas corporations in the First District, with particular reference to the inter-company relationship, the franchises and the condition of properties of the New Amsterdam Company and the East River Gas Company of Long Island City. Hearings were held on April 15th and subsequently until August 14th, when the matter was adjourned subject to call.

Gas Corporations.—Improvements in and inspection of meters.

Case No. 758

Extension Orders

The Commission, on October 2, 1908, adopted an order prescribing that all gas corporations within its jurisdiction remove

and submit to the Commission for test any and all gas meters which had been in use for more than seven years, and also that after July 1, 1909, no meter should be continued in use by any such corporation which had been in service untested for more than seven years, and that no such gas meter should again be set for use until tested and approved by the Commission.

The Central Union Gas Company made written application for an extension of time within which to comply with the provisions of the above order and the Commission on June 25th extended (see blank form of extension order, page 8) the time of said company to and including July 15, 1909.

The New Amsterdam Gas Company also made written application for an extension of time and the Commission on June 25th extended the time of the said company to and including September 1, 1909.

The Brooklyn Union Gas Company also made written application for an extension of time and the Commission on June 29th extended the time of the said company to and including July 15, 1909.

The Consolidated Gas Company of New York also made written application for an extension of time and the Commission on June 29th extended the time of the company to September 1, 1909.

Gas Companies.— Prepayment meters.

Case No. 1078

Hearing Order

The Commission, on February 19, 1909, directed that a hearing under Order No. 651 be held on February 24th, with reference to the practice of gas companies as to prepayment meters. Hearings were held on February 24th and on March 4th, 10th, 17th, 19th and 24th, when the matter was adjourned *sine die*.

Tracks and Switches.

Brooklyn Heights Railroad Company.— Repair of tracks and switches on Main Street at Prospect and Fulton Streets, Brooklyn.

Case No. 220

Discontinuance Order

This proceeding was begun in 1908 upon complaint of Robert E. Anthony, in regard to the repair of tracks and switches on Main Street at Prospect and Fulton Streets, Brooklyn.

<p>ROBERT E. ANTHONY, Complainant, vs.</p>	
<p>BROOKLYN HEIGHTS RAILROAD COMPANY, Defendant.</p>	<p>Case No. 220, Discontinuance Order. August 3, 1909.</p>
<p>"Tracks and Switches on Main Street at Prospect and Fulton Streets."</p>	

Ordered, That the said proceeding be and the same hereby is discontinued.

Coney Island and Brooklyn Railroad Company.—Repair of tracks and switches, De Kalb Avenue Line.

Case No. 1077
Hearing Order
Opinion of the Commission
Discontinuance Order

The Commission, on February 23, 1909, issued a hearing order (see blank form of hearing order, page 9), setting March 9th for a hearing. Hearings were held March 9th, June 9th, September 17th, December 15th and 22d.

OPINION OF THE COMMISSION.
(Adopted December 24, 1909.)

COMMISSIONER BASSETT: —

This proceeding was begun on the motion of the Commission, following numerous complaints and reports of the Electrical Inspection Department upon the worn-out condition of track on DeKalb Avenue for a distance of six blocks. At the hearing March 9, 1909, the company stated that a number of items of complaint had been eliminated. Later, on the recommendation of our engineers, plans were prepared to entirely rebuild the track in this location. As the company showed its willingness to do the necessary work, it was thought best to keep the proceeding open to note the progress of reconstruction rather than issue a final order. At the hearing December 22, 1909, a report by the transportation engineer was placed in evidence. This report states that the track has been entirely rebuilt and the work done to the satisfaction of that bureau. This proceeding should be discontinued.

Thereupon the Commission issued the following order:

In the Matter
of the
Hearing on Motion of the Commission on the Question of Repairs and Improvements to and in the tracks and switches of the CONEY ISLAND AND BROOKLYN RAILROAD COMPANY in DeKalb Avenue.

Case No. 1077,
Discontinuance Order.
December 24, 1909.

An order known as Hearing Order, Case No. 1071, having been duly made by the Commission on February 23, 1909, on its own motion, on the question of repairs and improvements to tracks and switches of the Coney Island and Brooklyn Railroad Company on the DeKalb Avenue Line, and said hearing having been duly had on March 3, 1909, June 9, 1909, September 17, 1909, December 15, 1909, and December 22, 1909, before Mr. Commissioner Bassett, presiding, Albert H. Walker, Esq., and Grosvenor H. Backus, Esq., Assistant Counsel, appearing for the Commission, and Edward L. Matthews, Esq., appearing for the railroad company; and testimony having been taken upon said hearing; and it having been made to appear after the proceedings on said hearing that improvements have been made in the tracks and switches of said line so marked that it is proper that the proceeding should be discontinued,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is discontinued, and that this order be filed in the office of the Commission.

Coney Island and Brooklyn Railroad Company.— Repairs and improvements to track, return circuit and pavement, Franklin Avenue Line.

Case No. 1087

Hearing Order

This proceeding was begun on motion of the Commission for the purpose of determining what, if any, repairs and improvements ought reasonably to be made to the track, return circuit and pavement of the Franklin Avenue Line. The Commission, on March 16, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on March 26th. Hearings were held on that date and on April 30th and May 6th. No further action was taken during 1909.

Dry Dock, East Broadway and Battery Railroad Company.— Repair of tracks on North Moore Street between West Broadway and Washington Street.

Case No. 1178

Complaint Order

This proceeding was begun upon complaint of Wilson & Towne Paper Company and others against the company in regard to the repairs to tracks on North Moore Street between West Broadway and Washington Street. The Commission, on November 23, 1909, issued a complaint order (see blank form of complaint order, page 7). The matter is pending.

**Forty-second Street, Manhattanville and St. Nicholas Avenue
Railway Company and Metropolitan Street Railway Company.**

— Location of tracks at Times Square.

Case No. 1068

Hearing Order

Opinion of the Commission

Dismissal Order

This proceeding was begun on complaint of Wagenhals and Kemper and others, in regard to changes in the tracks of the companies at Times Square. The Commission, on February 19, 1909, directed (see blank form of hearing order, page 8) that a hearing be had on March 2d. Hearings were held on said date and subsequently until April 26th.

OPINION OF THE COMMISSION.

(Adopted May 25, 1909.)

COMMISSIONER MALTBIE: —

The petitioners in this case originally asked that certain tracks in Broadway, between 43d Street and 46th Street, be removed, and that in lieu thereof there be constructed two crossovers, one between 43d and 44th Streets and another between 45th and 46th Streets. The reasons urged for the adoption of these changes were that the number of tracks and switches would be considerably reduced, and that, consequently, the danger to pedestrians and vehicles would be diminished.

The proposed changes would cost probably between \$60,000 and \$80,000. All of the cars operated over this portion of Seventh Avenue and of Broadway would be forced to use a single set of tracks for about two blocks. The cab and automobile stand in the square between 43d and 44th Streets, would probably have to be given up or reduced to very small proportions, and the crossover above 45th Street would probably prevent its removal to that point. Either result would doubtless inconvenience the public somewhat, as this is a theatre and hotel center of increasing importance.

At the hearings it developed that the purpose of the suggested alterations was not so much to remove the tracks in Broadway between 43d and 46th Streets as it was to remove the rails and switches at 45th Street by which the Seventh Avenue tracks above 45th Street are connected with the Seventh

Avenue tracks below 45th Street. To make this clear, it should be stated that the Broadway cars operated north of 45th Street do not run on Broadway below 45th Street, but on Seventh Avenue. The Broadway cars operated below 45th Street, upon the other hand, do not run on Broadway north of 45th Street, but turn into Seventh Avenue at 45th Street. Most of the Seventh Avenue southbound cars from north of 45th Street go down Broadway, and most of the Seventh Avenue northbound cars passing 45th Street go north on Broadway; but a few of the Seventh Avenue southbound cars continue down Seventh Avenue, and a few of the Seventh Avenue northbound cars continue up Seventh Avenue north of 45th Street. If the crossover above referred to were to be eliminated, whereby cars are run straight up and down Seventh Avenue, the principal object of the petitioners would be secured; but the public would be inconvenienced unless a new crossover were to be placed at some point not far distant.

While the hearings were under way, three other plans were suggested:

1. The construction of a crossover between 43d and 44th Streets, so that northbound cars could be switched at that point from the tracks in Seventh Avenue to the Broadway tracks, and *vice versa*.
2. The reversal of the present incomplete crossover just north of 44th Street.
3. The construction of a crossover north of 45th Street, so that northbound cars upon Broadway could be switched to the Seventh Avenue tracks, and *vice versa*.

Each one of these crossovers would probably cost about \$25,000.

The first plan would necessitate the removal of the cab and automobile stand above referred to or its restriction to a very much smaller area.

The second plan would make it impossible to operate cars up and down Broadway. Cars are not so operated at present because of the disintegration of the Metropolitan Street Railway system; but it is possible that after reorganization cars might be operated up and down Broadway to the convenience of the public. It would naturally seem unwise to order the installation of a crossover which would interfere with such operation in the future.

The third plan is, from an operating point of view, the best, and would least interfere with traffic or with the established use of Long Acre Square. But, apparently, it involves the use of the tracks of the Forty-second Street, Manhattanville & St. Nicholas Avenue Railway Company for a short distance by the receivers of the Metropolitan Street Railway Company. The receivers state they have no authority to do this, and doubtless would need to secure not only the consent of the Forty-second Street Company, but also of the abutting property owners and of the Board of Estimate and Apportionment. In view of the expressed opposition of the receivers to the construction and operation of this crossover, and of the lack of authority of the Commission to order them to obtain the necessary powers, an order would not be effective.

We are brought, therefore, to the question whether the construction of two crossovers, one below 44th Street and the other above 45th Street, and the removal of the tracks on Broadway, or the construction of one reverse crossover between 43d and 44th Streets should be ordered by the Commission. In view of the confused relationship between the various systems and companies at the present moment, of the probable reorganization within the

near future, and of the certain rearrangement of routes and possibly of tracks when such reorganization has been perfected, it would seem questionable whether at the present moment the receivers should be ordered to carry out either one of these two plans. The former would involve a large expense if the tracks were to be removed, and possibly they would need to be replaced after reorganization. The latter also should necessitate considerable expense and is open to other objections already stated. However, if it were true that the present crossover at 45th Street were a menace to life and limb, and either of the above plans would clearly reduce the number of accidents, it might be wise to disregard other considerations and order the change requested by the petitioners.

An examination has been made of the records of the Accident Bureau of the Commission. These show that no accident has happened at the present crossover since the bureau was created, nearly two years ago. Accidents have happened elsewhere in the square, which seems to indicate that the crossover itself is carefully guarded. Probably the public would be inconvenienced by the proposed change, but it is not considered that the benefit conferred upon the public and the decreased liability to accident at this time warrants an order requiring the removal of the crossover and the construction of one or two elsewhere. It should be clearly understood, however, that if the petition should be renewed after reorganization has been accomplished, and after the best routing of cars has been determined upon, it might be considered wise to order the adoption of some plan to do away with the present crossover.

An order of dismissal is herewith submitted.

Thereupon the Commission issued the following order:

CASE No. 1068, DISMISSAL ORDER.

(May 25, 1909.)

A hearing order, No. 1068, having been duly made by the Commission on February 19, 1909, directing that a hearing be had on the matters complained of by Wagenhals & Kemper and others in respect of the location at Times Square in the City of New York, Borough of Manhattan, of the tracks and switches of the Forty-second Street, Manhattanville and St. Nicholas Avenue Railway Company and Frederick W. Whitridge, as Receiver of said company, the Metropolitan Street Railway Company and Adrian H. Joline and Douglas Robinson, as Receivers of said company, and the Broadway and Seventh Avenue Railroad Company, and pursuant to said order a hearing having been duly had before Commissioner Milo R. Maltbie on March 2, 1909, and subsequent dates; and it appearing to the Commission that there are no reasonable grounds for the complaint in regard to the location of the said tracks and switches; it is

Ordered, That this proceeding be and the same hereby is dismissed.

Metropolitan Street Railway Company and Central Park, North and East River Railroad Company.— Use and operation of street surface railroad tracks at South Ferry, Manhattan.

Case No. 1135

Hearing Order

The Commission, on July 13, 1909, directed that a hearing under Order No. 615 be held in the above entitled matter on July 16, 1909, for the purpose of investigating the use and operation by the companies of street surface railroad tracks at South Ferry. Hearings were held July 16th, 23d and 26th. The matter was adjourned *sine die*.

Nassau Electric Railroad Company.— Repairs to track on Bergen Street — Service on Bergen Street Line and St. John's Place Line, Brooklyn.

Case No. 331
Discontinuance Order

This proceeding was begun in 1908 upon motion of the Commission to inquire what improvement, if any, should be made to the track on Bergen Street, and also in the service on Bergen Street Line and St. John's Place Line, Brooklyn.

In the Matter

of the

Hearing on the Motion of the Commission on the Question of Improvements in and Additions to the Service and Equipment of the NASSAU ELECTRIC RAILROAD COMPANY in the Particulars hereinbelow mentioned.

Case No. 331,
Order of Discontinuance.
May 28, 1909.

“Repairing of Track on Bergen Street — Service on Bergen Street Line and St. John's Place Line.”

A hearing order, No. 331, having been duly made herein on March 10, 1908, and a hearing having been duly held on March 25, 1908, and on certain adjourned dates, before Mr. Commissioner McCarroll presiding, Arthur N. Dutton, Esq., appearing for the railroad company, and Arthur DuBois, Esq., appearing for the Commission, and it appearing that the service on the St. John's Place line has been improved, and the opinion of Mr. Commissioner McCarroll being filed herewith and hereby approved,

Now, therefore, it is

Ordered, That this proceeding be and the same hereby is discontinued, without prejudice to an order for further hearing and action thereon by the Commission in respect of any of the matters covered by this proceeding.

Further ordered, That a copy of this order be served on the Nassau Electric Railroad Company.

Nassau Electric Railroad Company.— Repair of tracks on Cooper Street between Broadway and Bushwick Avenue, Brooklyn.

Case No. 1073

Hearing Order
Final Order

This proceeding was begun on motion of the Commission to inquire concerning the necessity of repairs and improvements to the tracks of the company on Cooper Street between Broadway and Bushwick Avenue, Brooklyn. The Commission, on February 19, 1909, directed (see blank form of hearing order, page 9) that a hearing be held on March 1st. A hearing was held on said date. Thereafter, the Commission issued the following order:

In the Matter
of the
Hearing upon Motion of the Commission on the
Question of Repairing Tracks of the NASSAU
ELECTRIC RAILROAD COMPANY on Cooper
Street between Broadway and Bushwick Avenue.

—

“Repair of Tracks of Nassau Electric Railroad
Company on Cooper Street between Broadway
and Bushwick Avenue.”

Case No. 1073,
Final Order.
April 9, 1909.

A hearing having been had by and before the Commission in the above entitled matter on the 1st day of March, 1909, before Commissioner Bassett presiding, pursuant to hearing order in Case No. 1073, dated February 19, 1909, issued on motion of the Commission after complaint made by Alfred F. Erichson, Esq., upon which said hearing said complainant appeared in person and said railroad company appeared by Arthur N. Dutton, Esq., Superintendent of Transportation; and it having been made to appear after the proceedings on said hearing that repairs, improvements, changes and additions in and to the tracks and switches of said company on Cooper Street between Broadway and Bushwick Avenue, in the Borough of Brooklyn, City of New York, in the particulars following ought reasonably to be made in order to promote the security and convenience of the public and in order to secure adequate facilities for the transportation of passengers;

Now, therefore, it is

Ordered, That said Nassau Electric Railroad Company be and it hereby is directed and required to make the following repairs, improvements, changes and additions in its tracks and switches upon its line in Cooper Street between Broadway and Bushwick Avenue, in the Borough of Brooklyn, City of New York, namely:

(1) That said company relay the Broadway end of the crossover from and including the frog, repairing all joints and resurfacing.

(2) That said company make the following repairs, improvements, changes and additions in and to the east-bound track:

- Opposite No. 13, replace corrugated inside rail, 11 yards.
- Opposite No. 19, repair joint in outside rail.
- Opposite No. 23, repair two joints.
- Opposite No. 25, repair broken joint in inside rail.
- Opposite No. 29, cut out corrugations outside rail, replacing with 12 feet of new rail.
- Beginning opposite No. 31, replace 30' section in each rail.

(3) That said company make the following repairs, improvements, changes and additions in and to the westbound track:

- Opposite No. 38, lift joint outside rail.
- Opposite No. 34, resurface both rails.
- Opposite No. 32, replace 30 feet of inside and 20 feet of outside rail and bring up pavement.
- Opposite Nos. 22, 24 and 26, resurface both rails for 40 feet, replacing 30 feet of outside rail.
- Opposite No. 20, repair joint inside rail.

(4) That the repairs, improvements, changes and additions aforesaid be made by said company prior to the 10th day of May, 1909.

(5) That this order shall take effect immediately and shall continue in force until said work shall have been completed, unless earlier modified or abrogated by the Commission.

(6) That said Nassau Electric Railroad Company notify the Public Service Commission for the First District on or before the 12th day of April, 1909, whether the terms of this order are accepted and will be obeyed.

New York and Queens County Railway Company.— Double-tracking Flushing-Jamaica Line and the College Point Line.

Case No. 1066

Hearing Order

Opinion of the Commission

Final Order

This proceeding was begun upon motion of the Commission to inquire whether improvements or additions should reasonably be made in the tracks of the company in such a manner as to provide a complete double track on the College Point Line and the Flushing-Jamaica Line. The Commission, on February 16, 1909, directed (see blank form of hearing order, page 9) that a hearing be had on March 1st. Hearings were had on said date and subsequently until August 21st.

OPINION OF THE COMMISSION.

(Adopted October 28, 1909.)

COMMISSIONER BASSETT: —

This proceeding was instituted by the Commission by an order for a hearing to be held on March 1, 1909, and at such times thereafter to which the same may be adjourned, to inquire whether improvements to or changes

in any tracks, switches, terminals or terminal facilities used by the New York and Queens County Railway Company ought reasonably to be made or whether any additions should reasonably be made thereto, in order to promote the security and convenience of the public, and to determine whether the New York and Queens County Railway Company should be required to lay additional tracks in such a manner as to provide a complete double track on the College Point and Flushing-Jamaica lines. Hearings were held until midsummer and again in August, in order that operating data for the different seasons might be placed before the Commission.

The last hearing was held on August 21, 1909. The company was represented by counsel throughout the hearings and many parties affected attended from time to time either personally or by counsel. Both of these lines consist of single track with occasional turnouts. Users of these lines who appeared at the hearings claim that both should be double tracked throughout their length and that the present single tracks with turnouts are inadequate and unsafe; that reasonably rapid time cannot be made; that delays and accidents are frequent at the turnouts; that regularity of operation is not maintained, and that occasional periods of great congestion occur that could be avoided if the lines were double tracked.

College Point Line.—The operation of cars between Flushing and College Point is a continuation of the route between Long Island City Ferry and College Point. The ordinary schedule is fifteen minutes headway, but during the rush hours, mornings and evenings, the headway is seven and one-half minutes. The length of single track between the ends of the double track in Flushing and College point is 5800 feet, including a turnout which is located equi-distant. Seven and one-half minutes' headway therefore is the least that can be operated over this stretch of single track at ordinary speed. It appears, however, from evidence, that even with a seven and one-half minutes' headway there is a congestion of traffic sometimes during the rush hours and on Sundays and holidays that can only be relieved permanently and provide for further increase of traffic by double tracks between the two villages. Temporary relief might be obtained by operating cars of greater capacity, or running double headers, but as this short stretch of single track is at one end of a long route frequent delays are bound to occur, disarranging schedules and causing irregular car intervals.

In my opinion the company should be required to double track its route between Flushing and College Point.

Jamaica-Flushing Line.—This line extends from Lawrence Street and Broadway in Flushing to the center of Jamaica, a distance of approximately six miles. It goes over a hilly and broken region. For more than half the distance it runs over a private right of way. It is practically a single-track operation with turnouts located at such distances as restrict the operation of cars to a minimum of ten minutes' headway, although if cars were run at a higher rate of speed this headway might be somewhat reduced.

The testimony shows that operation at ten minute intervals provides ample accommodation, except during the rush hours on week days, and on Sundays and holidays when the weather is fair. It appears, however, that frequent and serious delays have been occasioned by accident to the overhead wires and failure of the block signal system, which is in my opinion obsolete, inadequate and dangerous. Adequate service can be obtained by partial

double tracking with proper automatic electric block signals, and thorough repair and adjustment of overhead lines, switches and connections. The hearing order in this proceeding makes no mention of the question of block signals or of repair of overhead lines and for this reason the final order should make no provision for this work. I am informed, however, that the company is proceeding to replace its trolley wire with new and heavier material. It seems to me that automatic electric block signals should be used.

On the Flushing-Jamaica Line, therefore, I recommend the adoption of an order directing:

I. The double tracking of two stretches of single track lying within the limits of the former Village of Flushing, and on which cars of other lines operate, namely,

(a) On Jamaica Avenue from Madison Avenue to Sanford Avenue and (b) on Sanford Avenue from Jamaica Avenue to Bowne Avenue, and

II. That such other double tracking be done on this line, by lengthening existing turnouts, as may be necessary, to permit the operation of cars on five minutes' headway.

Without recommending at this time that a change in the type of cars should be made, I desire to point out that service conditions could be greatly improved and the intermittent excess traffic practically taken care of if the company would use fourteen or fifteen bench open cars during the summer months and double-truck closed cars (44 seats) during the winter months.

Franchises.—The company claims that its franchise rights do not allow a complete double tracking of these two lines. I have reviewed the franchise under which the company operates and the facts depended upon by the company to support their contention. Views may differ on whether certain rights once held have been forfeited. It does not seem to me to be necessary at this time to decide whether the company at present has rights to double track the portions above referred to. We must presume that the company will give adequate service as required by the Public Service Commissions Law, and if in order to do this it becomes necessary to obtain additional consents for the use of streets, either from abutting owners or from the municipality, that it will proceed to obtain them. The first step for the company to take should be the preparation of plans for the double tracking of the College Point Line and the partial or entire double tracking of the Jamaica-Flushing Line. The necessary consents, both from abutting owners and the municipality, should then be obtained. Pending the obtaining of such consents those parts of the work where the company now has rights or where the construction is on private property should proceed, at least so far as it is independent of street work, and will provide increased adequacy and safety of operation.

The foregoing conclusions have been reached after a consideration of the present traffic needs. In the minds of many interested citizens the determination should have been limited to an enforcement of recommendations made by the State Board of Railroad Commissioners in 1906 7. In a report dated July 11, 1906, made by C. R. Barnes, electrical expert for that board, on the occasion of the application of the company for consent to mortgage its property and issue certain bonds, the following statement occurs:

“On the College Point line there is about one mile of single track. * * * The line between Jamaica and Flushing, about 5.14 miles, is single track.

The facilities of travel and safety of operation require that these single track portions of the system be double tracked."

The application of the company was somewhat indefinite as to amounts and purposes, although it refers to improvements to track and additional tracks. An examination of the documents in the proceeding upon this application makes it plain that the double tracking of the lines in question was given as one of the reasons for requiring the consent to mortgage its property and issue bonds. In a hearing held June 30, 1906, counsel for the applicant said: "The statement as to the \$6,135,000 does not go into detail, but it is very difficult to go into much detail on that subject. I have, however, a letter from the president of the company addressed to the board which gives such detail as is possible at the present time." The letter referred to, signed by Arthur Turnbull, President, contains the following:

"I beg to state that the future expenditures therein (in the application) referred to will be required for the following general purposes: Additional tracks, terminals, extensions and lines of railway to meet the public demand and necessity for increased transportation facilities resulting from the completion of the Blackwell's Island Bridge and of the tunnel of the New York and Long Island Railroad Company between 42d Street and Long Island City."

At a hearing held August 1, 1906, the Board requested that the Board of Directors of the company certify in detail as to the need of \$6,135,000 bonds.

I quote from the minutes —

Commissioner Dunn: "Lay it (Mr. Barnes' report) before your Executive Committee or before your Board of Directors, which would be better, and let them certify that they propose to use this money for this purpose, so it will be a matter of record with us. The report of our inspector is explicit. It goes over them in detail, which we think ought to be done. We want something from your Board of Directors showing what they will do with the balance of this money."

Mr. Fuller: "We think this ought to be done, too. That is what we are providing this money for."

Mr. Bayne, for applicant: "* * * I beg to say, however, that the mortgage will not show each specific purpose. It will be done in the same manner as has been done before; namely, assurance from the officers of the company that the funds would be expended."

Commissioner Dunn: "I beg your pardon. You are in error. In every case that has come before us we have required a certified statement showing just what they propose to do with the money. That is the only thing we are asking you for."

At the next hearing, September 11, 1906, Mr. Bayne produced a resolution of the Board of Directors of the company bearing upon the \$6,135,000 item. It contains the following:

"WHEREAS, said expert (Mr. Barnes) has duly examined and reported upon said property and has recommended that a large outlay be made by this company for additional cars, for power house, transformer stations and equipments for track extensions, double tracks, and track betterments * * * as is more fully set forth in his written report to said railroad commissioners, dated July 11, 1906,

"WHEREAS, the representatives of this company appearing before said Board, having assured it that this company intends to expend the proceeds

of said \$6,135,000 face value of bonds for improvements to the property, including additional cars, power house, transformer stations, equipments, track extensions, double tracks and track betterments, * * * and

"WHEREAS, The Board of Railroad Commissioners has required that this Board ratify and affirm said assurances of its said representatives,

"Now, therefore, be it

"Resolved, that this Board confirm * * * the foregoing assurances of its representatives, and that this company intends to expend the proceeds of said \$6,135,000 face value of bonds, for improvements to the property, including additional cars, power house, transformer stations and equipment, track extensions, double tracks and track betterments * * *."

After the company had given these assurances the State Railroad Board, on September 20, 1906, authorized the issuance of the bonds to provide for the improvements in construction and equipment of said company's railway recommended by the Board in recommendations of that date. A letter was sent by the Board to the company, stating as follows:

"The suggestions in this report (the above mentioned Barnes report) are hereby made the recommendations of this Board, and the company is expected to comply therewith."

It should be noted that Mr. Barnes' report states that the double tracks between Jamaica and Flushing should be completed by January 1, 1908, and the rest by January 1, 1909. The railroad company apparently failed to carry out the recommendations, for on March 30, 1907, the Board wrote to the railroad company to appear before it on April 5, 1907, "to show cause why the matter of your failure to comply with these recommendations should not be turned over to the Attorney-General for his consideration and action."

An examination of these proceedings, had before the Public Service Commission was appointed, has convinced me that the company at that time intended to double track the College Point and the Jamaica-Flushing lines; that it so represented to the State Railroad Board and obtained the consent for the issuance of bonds by giving such assurances; that the State Railroad Board in addition recommended that this double tracking should be done and up to the time that it was succeeded by the Public Service Commission urged the company to carry out the assurances that the company had given and the recommendations that the Board had made.

In the face of this showing it seems to me that the company now comes before the Commission with bad grace to claim that this double tracking is unnecessary. I prefer, however, to base my recommendations upon the showing of present traffic needs instead of upon the proceedings that took place before our predecessor Board. I recommend that an order be issued in accordance herewith.

Thereafter the Commission issued the following order:

CASE No. 1066, FINAL ORDER.

(October 29, 1909.)

After a hearing duly held before Mr. Commissioner Bassett, presiding, Albert J. Kenyon, Esq., appearing for the New York and Queens County Railway Company, Arthur DuBois, Esq., attending for the Commission, on March 1, 1909, March 9, 1909, March 23, 1909, March 30, 1909, April 13, 1909, April 21, 1909, April 27, 1909, May 5, 1909, May 12, 1909, August 6,

1909, August 17, 1909, and August 21, 1909, the Commission being of opinion that repairs, improvements and changes in tracks, switches and other property and devices used by The New York and Queens County Railway Company on its Flushing-Jamaica and its Flushing and College Point Lines ought reasonably to be made in order to promote the security or convenience of the public and in order to secure adequate service and facilities,

Now, therefore, it is

Ordered, That the New York and Queens County Railway Company be and it hereby is required:

(1) To make such alterations, additions and changes as may be necessary to provide double tracks over the entire route between Flushing and College Point. This construction shall be completed not later than June 1, 1910.

(2) To make such alterations, additions and changes as may be necessary to provide double tracks over all the following portions of the Flushing-Jamaica Line:

(a) On Jamaica Avenue from Madison Avenue to Sanford Avenue;

(b) On Sanford Avenue from Jamaica Avenue to Bowne Avenue.

This construction shall be completed not later than June 1, 1910.

(3) To do such other double-tracking on the Flushing-Jamaica Line by lengthening existing turnouts as may be necessary to permit the operation of cars on five minutes' headway; detailed specifications and plans covering this construction to be submitted for approval to the Public Service Commission for the First District not later than December 1, 1909, the work to be completed within 120 days after the plans and specifications are approved.

Further ordered, That this order shall take effect immediately and remain in force until further order of the Commission.

Further ordered, That the New York and Queens County Railway Company notify the Public Service Commission for the First District within ten days after service of this order upon it whether the terms of this order are accepted and will be obeyed.

The company having made an application for an extension of time for notifying the Commission whether the terms of the Final Order are accepted and will be obeyed, the Commission, on November 12, 1909, adopted an order extending the said time of the company to November 27th. (See blank form of extension order, page 8.) No further action during 1909.

New York Central and Hudson River Railroad Company.—

Maintenance of tracks and operation thereon between Spuyten Duyvil and 68th Street in excess of double-track system.

Case No. 1183

Complaint Order

This proceeding was begun upon the complaint of George L. Willson, who alleged that the company was maintaining and operating upon tracks between Spuyten Duyvil and 68th Street in excess of the right granted it. The Commission, on December 10, 1909, issued a complaint order (see blank form of complaint order, page 7). The matter is pending.

**Union Railway Company of New York City.— Repair of tracks
at east end of Macomb's Dam Bridge.**

In the Matter

of the

Hearing on the Motion of the Commission on the
Question of Service and Equipment of the
UNION RAILWAY COMPANY in respect to
the condition of its track at the east end of
Macomb's Dam Bridge.

Case No. 240,
Discontinuance Order.
August 3, 1909.

An order of the Commission having been made herein on the 4th day of February, 1908, directing that a hearing be held on February 19, 1908, and the said hearing having been held before Mr. Commissioner Eustis on February 19, 1908, and by adjournment on March 10, 1908, and it appearing that the defective rail joints at the point in question have been repaired, it is

Ordered, That the above entitled proceeding be and the same hereby is discontinued.

Miscellaneous Matters.

**Long Island Railroad Company.— Accident on Atlantic Avenue
Division.**

Case No. 1167
Hearing Order

The Commission, on October 5, 1909, issued an order directing that a hearing (see blank form of hearing order, page 9) be had October 11, 1909, concerning an investigation of an accident on the Atlantic Avenue Division, which happened on September 17, 1909. Hearings were held on said date and on October 15, 1909, when the matter was closed.

Bridge Operating Company.— General investigation.

Case No. 1155
Hearing Order

The Commission, on August 20, 1909, directed that a hearing in the above entitled matter be held under Order No. 615, on August 31st, in regard to the rights, equipment, service and operation of the company. Hearings were held August 3d and September 9th, when the matter was adjourned subject to call.

Bridge Operating Company.— Inspection and examination of accounts, records and memoranda.

Case No. 1156

In the Matter
of
The Inspection and Examination of the Accounts,
Records and Memoranda Kept by the BRIDGE
OPERATING COMPANY.

Case No. 1156.
Order for Examina-
tion of Accounts.
August 25, 1909.

It is hereby

Ordered, That Marvyn Scudder, employed by this Commission as an accountant, be designated, and is hereby directed to inspect and examine the accounts, records and memoranda kept by the Bridge Operating Company and all books of original entry, all ledgers, all balance sheets and any and all books of said company.

And the said Bridge Operating Company is hereby directed and required to afford the aforesaid Marvyn Scudder access to all such accounts, records, books and memoranda.

It is further

Ordered, That this order shall take effect forthwith and continue in force for a period of six months from the date hereof.

Third Avenue Railroad Company.— Appraisal of property.

Case No. 1145

Hearing Order

The Commission, on July 13, 1909, directed that a hearing under Order No. 615 be held on August 4th, in the matter of the character, extent, location and value of structures, facilities and property of the company. Hearings were held on August 4th and on subsequent dates during August, September and October until October 20th, when the matter was closed.

Union Railway Company of New York City.— Accident at or near 167th Street and Sedgwick Avenue, Bronx.

Case No. 1168

Hearing Order

The Commission, on October 1, 1909, issued an order directing (see blank form of hearing order, page 9) that a hearing be had October 8th to ascertain the cause of the accident on the company's line at or near 167th Street and Sedgwick Avenue, Bronx, which resulted in the death of one James Reynolds. Hearings were held on said date and on October 14th, when the hearing was closed.

Brooklyn Heights Railroad Company.—Hours of labor of train dispatchers and tower switchmen on the Bridge Division.

(Case No. 503)

Opinion of the Commission
Discontinuance Order .

This proceeding was begun in 1908 upon motion of the Commission to determine whether the hours of train dispatchers on the Bridge Division should be changed from ten hours per day to eight hours per day. A hearing was held in 1908.

OPINION OF THE COMMISSION.

(Adopted August 3, 1909.)

COMMISSIONER BASSETT: —

The Transit Inspection Department of the Commission called attention to the fact that men employed by the Brooklyn Union Elevated Railroad Company at the terminals of the Brooklyn Bridge worked twelve hours a day, and expressed the opinion that these long hours were a source of danger to the traveling public. Subjoined to the communication were items showing the number of hours that various bridge railroad men were employed. At the request of the Commission the undersigned singled out certain of the positions that appeared to be most intimately connected with train operation and prepared a hearing order in respect to the employment of dispatchers and switchmen. This order was duly passed, being No. 503, and the undersigned was designated to conduct the hearing.

It was disclosed that none of such employees if he fell asleep would be likely to cause an accident. The reason for this is that the interlocking switch system is installed at every point upon the bridge and if a switchman should fall asleep he would simply tie up the system, or his part of the system, until some one took his place. The so-called dispatchers were shown to be platform men, who do not have the control of train movements. The men who work twelve hours receive better pay than the short time men and the places are much sought after.

It does not appear that the length of working hours is in any way imperiling the safety of passengers. Having come to this conclusion it does not appear to be necessary to discuss other reasons that might operate as between employer and employee to shorten hours of daily labor, inasmuch as the Commission has considered that its main duty under the law is to supervise railroad transportation in respect to its safety and adequacy. As this hearing was not upon a complaint, but upon the motion of the Commission, it is not necessary that any final order should be made.

Thereupon, the Commission issued the following order:

In the Matter
of the
Hearing on the Motion of the Commission on the
Question of Improvement in the Service of the
BROOKLYN HEIGHTS RAILROAD COM-
PANY, in Respect to Employment of Train Dis-
patchers and Tower Switchmen on the Bridge
Division.

Case No. 503,
Discontinuance Order.
August 3, 1909.

An order of the Commission, No. 503, having been made herein on the 19th day of May, 1908, directing that a hearing be had on May 29, 1908, and the hearing having been held before Mr. Commissioner Bassett on May 29, 1908, and the report herein of Mr. Commissioner Bassett having been filed,

It is ordered, That the above entitled proceeding be and the same hereby is discontinued.

**The Pennsylvania Tunnel and Terminal Railroad Company,
Long Island Railroad Company.— Gas line through Sunnyside
Yard.**

This proceeding was begun in 1908 upon the complaint of the East River Gas Company of Long Island City because of the construction of a gas line through Sunnyside Yard. Hearings were held in that year and on January 12, 26 and February 3, 1909. The companies having adjusted the matter between themselves, the following order was issued:

THE EAST RIVER GAS COMPANY OF LONG
ISLAND CITY,

Complainant,

against

THE PENNSYLVANIA TUNNEL & TERMINAL
RAILROAD COMPANY and THE LONG ISLAND
RAILROAD COMPANY,

Defendants.

Case No. 826,
Dismissal Order.
February 16, 1909.

“Gas Line through Sunnyside Yard.”

This controversy having been settled and adjusted by and between the parties,

Now, on reading and filing the annexed consent of Shepard, Smith and Harkness, Attorneys for the Pennsylvania Tunnel and Terminal Railroad Company, and of J. F. Keany, Attorney for the Long Island Railroad Company, and on motion of Shearman & Sterling, Attorneys for the Complainant above named, it is

Ordered, That the proceeding above entitled be and the same hereby is discontinued.

New York City Interborough Railway Company.— Failure to construct railroad through the Borough of The Bronx for which franchise was obtained in 1905.

Case No. 588

This proceeding was begun in 1908 upon the complaint of Robert C. Wood against the company for failure to construct a railroad through the Borough of The Bronx for which they had obtained a franchise in 1905. Hearings were held during 1908 and on September 24, 1909, and subsequently until October 18, 1909. The company having secured from the board of estimate and apportionment of the City of New York an extension of the time within which its route is to be completed until March 24, 1912, the Commission could not shorten their time by an order. Therefore, nothing further was done in this proceeding during 1909.

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